

MINUTES

SENATE COMMITTEE ON JUDICIARY

October 28-29, 1993
Room 123-S -- Statehouse

Members Present

Senator Jerry Moran, Chairman
Senator Mike Harris, Vice-Chairman
Senator Dick Bond
Senator Bill Brady
Senator Tim Emert
Senator Paul Feleciano, Jr.
Senator Phil Martin
Senator Lana Oleen
Senator Mark Parkinson
Senator Marge Petty
Senator Pat Ranson
Senator Richard Rock
Senator Bob Vancrum

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Staff

Mike Heim, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes Office
Darlene Thomas, Committee Secretary

Conferees

Gary Stotts, Secretary, Kansas Department of Corrections
Chuck Simmons, Chief Legal Counsel, Kansas Department of Corrections
Attorney General Bob Stephan, Chairman, Kansas Sentencing Commission
Lisa Moots, Kansas Sentencing Commission
Sherman Parks, Kansas Parole Board
R. D. Miller, Kansas Parole Board
Judge William Carpenter, Topeka
Judge Bill Robinson, Kansas City
Judge Merlin Wheeler, Emporia
Judge William Lyle, Hutchinson
Mike Santos, Overland Park Assistant City Attorney
Don Moler, League of Kansas Municipalities

Mike Boyer, Kansas Bureau of Investigation
Steve Star, Deputy Director, Kansas Bureau of Investigation
Professor Nancy Maxwell, Washburn University School of Law
Donna Whiteman, Secretary, Department of Social and Rehabilitation Services
Thomas H., Youth Center at Topeka, former detainee
Kappelle S., Youth Center at Topeka, detainee
Carrol Mills, Chief Psychologist, Youth Center at Topeka
Bill Sherlock, Substance Abuse Program Coordinator, Youth Center at Beloit
Steve Crockett, Youth Services Director, Youth Center at Larned
Mike Driscoll, Chief Social Worker, Youth Center at Atchison
State Senator Dottie Wham, Chair, Colorado Senate Judiciary
Ruth O'Donnell, Site Manager, The Farm Inc., Wakeeney
James W. Clark, Executive Director, Kansas County and District Attorney Association
Karen Langston, Sedgwick County Assistant District Attorney
Sally Salgugero, Sedgwick County Assistant District Attorney
Judge Frank Yoeman, Topeka
Judge Dan Burgess, Wichita
Judge Tom Graber, Wellington
Elma Broadfoot, Mayor of Wichita
Paul Longhofer, Assistant Superintendent, Wichita USD 259
Ben Coates, Topeka

October 28, 1993
Morning Session

Sentencing Guidelines

The Senate Committee on Judiciary was called to order at 9:10 a.m. Brief introductory remarks were made by Chairman, Senator Jerry Moran. An overview was given of the two-day meeting to include: public safety, particularly the juvenile aspect of our system; sentencing guidelines and retroactive provisions; prison population; conference call with the Chairman of the Senate Judiciary Committee of Colorado concerning the Colorado juvenile law package passed in a recent special session.

Gary Stotts, Secretary, Kansas Department of Corrections, provided a report on sentencing guidelines. The report dealt with the retroactive provision of the law which became effective when the act became effective on July 1, 1993 (Attachment 1). Secretary Stotts explained at length those eligible under law for early release through the retroactive pool. He explained that the law did not provide for an automatic release. There is a provision for objection either by inmates regarding their lack of eligibility for early release, or the prosecuting attorney, who may object to the inmate's early release before a judge of the sentencing court.

When the guidelines were passed, one of the basic premises was there was going to be an attempt to balance the prison population. Prisons would be for more serious offenders. Everyone was put into a severity level. In deciding to balance the population, a line was drawn on the grid that says the presumption is prison or the presumption is probation. Under the guidelines, a defendant who is convicted of a crime with a criminal history that places them into the presumption for

probation boxes will be sentenced to probation, unless the judge exercises discretion and requires incarceration for certain reasons permitted by law. The retroactivity provision simply goes back to the existing population and determines what portion of the existing population falls in this presumption of probation category.

Questions were raised concerning the categories and severity levels of those placed on the grid. It was suggested that there would need to be decisions by the Committee on whether or not to make changes to the grid in the 1994 Legislative Session.

In regard to what happens after retroactive application and release, Secretary Stotts said that once prisoners are released they are required to be under postrelease supervision, which is the same type of supervision as parole supervision except that they are supervised for either 12 or 24 months, depending on their severity level. Someone who violates the terms of their postrelease supervision can only be returned to prison for a maximum of 90 days.

Secretary Stotts said two distinctions exist between those being paroled and those having retroactive guidelines applied. A prisoner who is released on parole by the Parole Board is not subject to automatic release; whereas, under guidelines and retroactivity, the release is more or less automatic. If a prisoner violates the terms of parole, then they are subject to reincarceration for possibly the remainder of their prison term; whereas, under sentencing guidelines there is a 90-day maximum return.

A question was asked if there were statistics to prove that sentencing guidelines will reduce or eliminate the racial disparity in sentencing. Secretary Stotts said that guidelines were designed to weed out racial factors by taking into account only two factors: crime of conviction and criminal history.

Chuck Simmons, Chief Legal Counsel, Kansas Department of Corrections, testified concerning the retroactivity process. The sentencing guidelines law has been interpreted to mean if a person falls within the eligibility boxes, it is not a question of whether that person will be converted; it is a question of what the sentence will be for that person when they are converted. A list of those who fall within the eligibility boxes is sent to the county or district attorney, the court, and the inmate. Any of the three have a period of 30 days in which to file a motion with the court for a hearing. No further action is taken to convert the inmate's sentence until word is received from the court. If motion is not filed in the 30-day period, then five work days after the 30 days, the sentence is converted. The eligible inmate must have served to or past the midpoint of the guideline sentence in his grid box in order to be released. Once the amount of time has been served, the inmate is released subject to supervision.

The court can do anything allowable under guidelines: it can sentence the person to the high end of the grid box, the low end of the grid box, the midpoint of the grid box, or make a durational departure based on mitigating or aggravating factors listed in the law.

He noted that a special rule was enacted by the Legislature last session to remove the presumption of probation for those convicted of aggravated battery, aggravated assault with firearms, and aggravated assault on a police officer.

A question was asked if there is a need for the Legislature to reconsider the 90-day limit for parole violators. Secretary Stotts said the Department was not asking for a change at this time. Operational changes are being implemented in the way parole violators are handled to see if that has

any positive impact. If that does not accomplish the goal of getting these people out of the cycle of crime, the Legislature may need to look at changes later.

Secretary Stotts said that the prison population has declined significantly due to sentencing guidelines. Postrelease and parole supervision have increased. Two years ago, the Legislature gave a 20-position parole officer increase which is helping with the caseload of parolees. He said that there is still a need for more people to supervise parolees and a need for more resources for intermediate sanctions.

Attorney General Bob Stephan, Chairman, Kansas Sentencing Commission, testified concerning Sentencing Commission and Guidelines (Attachment 2).

A statement was made that retroactivity did not mean that much. It was noted that the Department of Corrections is required to advise county and district attorneys as to those inmates eligible for retroactive release, giving prosecutors an opportunity to object to retroactive release of inmates in court. The majority of those included in the retroactive pool would have been eligible for parole or release within 90 to 120 days even if there were no retroactive provisions.

Attorney General Stephan said that was a fairly accurate statement about retroactivity. He agreed it did little and said he never understood those who insisted on a retroactive provision.

Attorney General Stephan said the purpose of a hearing before a court was to show that the inmate has the type of criminal history that should not make that person amenable to retroactivity. The procedure gives the court an opportunity to look at the sentencing guidelines and leave the individual where he or she is, if need be.

The Chairman asked the Attorney General to make recommendations to the Committee at a later date, regarding changes that should be made in the guidelines law. The Attorney General agreed.

The Attorney General said that in regard to victims of crime and the impact of guidelines, the guidelines serve a real purpose to ease the pain a victim suffers. They do not have to go back every year to the Parole Board and relive the crime. Sentencing guidelines provide for truth in sentencing, more truth than previously. They allow the focus to be put on the appropriate penalty, rather than a broad range of things that sound tough but are not, in reality, tough.

Lisa Moots, Executive Director, Kansas Sentencing Commission, said retroactivity provisions of the sentencing guidelines involve nothing more than emptying some of those prison beds of the less serious offenders for those more serious offenders (Attachment 3).

A question was asked whether extending the period of supervision of sexual predators solves the problem of putting a category of criminal back on the streets where the history of this type of offender shows 85-95 percent are repeat offenders. Ms. Moots said that according to experts, if there is any chance of success in treatment, it must be extensive treatment. A year or two of treatment is not long enough. The longer they report to a parole officer, the more likely society will have some element of control over where they are and what they are doing.

She said that a proposed list of statutory changes is being prepared by the Kansas Sentencing Commission, dealing with questions and concerns about guidelines as they are received

from judges and prosecutors. The list of changes will be available for the November 17-18 Senate Judiciary Committee meeting.

R. D. Miller, of the Kansas Parole Board, said the law does not go back far enough into the criminal history of the inmate. He said the 90-day limit for parole violators allowed them time to get away from the "old lady, kids, and the bill collectors" to a place where they get three meals and a bed. He said that a technical violation of parole involves things like getting drunk or using drugs of some kind. If a person is caught in violation, they must appear before the Parole Board for a decision as to whether their parole is revoked.

Mr. Miller said that he was concerned that some sex offenders are being released too early under the retroactivity provision of sentencing guidelines. He gave several examples of inmates released under the retroactivity provisions which he said were egregious.

Sherman Parks, Kansas Parole Board, expressed concern that convictions of the inmates do not reflect actual crimes committed, due to plea bargaining.

Mr. Parks said the system reflects some racial bias. For example, certain drug crimes occur mostly in minority communities. He said that the use or possession of crack cocaine, used more in the Black community, is treated more severely than regular cocaine. He said 90 percent of incest and indecent liberties crimes are committed by White offenders. He said that there was a better chance for parole for a sex crime than there is for a crime involving residue of crack cocaine on a person.

Mr. Parks said because of a higher level of police patrols in minority neighborhoods, minorities will have more of a criminal history. Because of criminal history, minorities who come back on a new charge under the sentencing guidelines will automatically fly up the grid.

Mr. Parks said that individuals in the Larned Correctional Mental Health Facility are eligible for retroactive release. He said that when these people are in a controlled environment they do good, but when released, many do not stay on their medication and as a result, have a tendency to be repeat offenders.

District Judge Bill Robinson, Kansas City, said sentencing guidelines clarify the actual sentence of the defendant. He said that he was receiving motions from prisoners who feel they belong in the retroactive pool. He said the jurisdictional issue is unclear whether this is a criminal or a civil proceeding. He said some prisoners have claimed they were put in the wrong grid, the wrong severity level, or wrong criminal history category level.

Judge William Carpenter, of Topeka, said sentencing guidelines will need five years before they can be evaluated as to their effectiveness. He said judges are still in the learning stages.

Judge Richard Walker, Newton, was not present but provided written testimony (Attachment 4).

Judge Merlin Wheeler, Emporia, addressed retroactivity, protection of the community, and the efficiency of the system. He said problems include:

1. a number of inmates who are not eligible for retroactive application because of the severity level of their crime are arguing their right to equal protection is being violated under the sentencing guidelines; and
2. inmates who request a hearing because they are dissatisfied with their classification because it is not clear whether this hearing is merely to determine if the classification is correct or if the hearing has a further scope.

Judge William Lyle, Hutchinson, said the guidelines do give judges discretion. When an inmate requests a hearing, the criminal history is established and journal entries are prepared at the hearing. If the history is established that the person is eligible for retroactive application of sentencing guidelines, retroactivity is put in place. He questioned the usefulness of the State Reception and Diagnostic Center (SRDC) under sentencing guidelines and said this may present an opportunity to save money in this area.

Afternoon Session

Mike Santos, Overland Park, Assistant City Attorney, addressed the Committee on behalf of the Overland Park Municipal Court and the Police Department concerning the *1993 Session Laws*, Chapter 291, Sections 5 and 6 and Section 15, which deal with mandatory fingerprinting and processing of individuals charged with comparable class A and B misdemeanors in municipal court (Attachment 5). He noted that police departments and municipalities do not typically have custody of persons charged with these crimes. Municipal courts deal primarily with nondangerous and innocuous violations of the law. He said that the Municipal Court Procedure Act prohibits police departments from arresting people and taking them into custody and, in fact, processing and fingerprinting, except in limited areas. Even if an offender committed one of the comparable violations, class A or B misdemeanor, the police departments never have custody of most of these persons. The offender simply receives a ticket. After they receive the ticket they must show up for their first appearance or arraignment. That is the first time the municipal court sees these individuals that have allegedly committed a crime that is comparable to a class A or B misdemeanor. The law, as it now reads, requires that the municipal court judge, at the first appearance, insure that these individuals are processed and fingerprinted. Most cities do not have any ability to move this large of a group of people from their arraignment site over to a processing station.

He noted also that what is a comparable class A or B misdemeanor for one city is not the same for another; e.g., what may be a battery in one city may not necessarily be the same crime in another city. He questioned whether any city ordinance violations should be reported under the sentencing guideline matrix.

He suggested that a compromise might be that a city only have to report or fingerprint a person who has been convicted. He said information has to be reported on a Kansas Bureau of Investigation (KBI) form and that there has never been a new form generated by KBI. He said cities are presently using the old form as an interim form.

In regard to the victims' rights legislation enacted last session, he said this was very complex and costly for Overland Park and involved hiring two full-time persons to deal with their

42,000 municipal cases. Some municipalities are giving the victims the option of saying they are adequately taken care of and they choose not to know anything further about the case.

Don Moler, Senior Legal Counsel, The League of Kansas Municipalities, addressed the Committee regarding the fingerprinting requirements found in Section 15, Chapter 291 of the *1993 Session Laws of Kansas (Attachment 6)*. He said there are problems with the requirement that every police department is required to make two sets of fingerprint impressions of a person arrested for violation of a municipal ordinance which would be the equivalent of a class A or B misdemeanor under state law.

Mike Santos and Don Moler were asked to draft some language for the November 17-18 Senate Judiciary Committee meeting concerning this problem.

Mike Boyer, KBI, testified on sentencing guidelines and their impact, specifically class A and B misdemeanors, on municipalities as well as juvenile issues. He said the old KBI form, as mentioned by Mike Santos, would be replaced by a new form which was nearing completion, and offered a copy of the draft if anyone should want it.

Juvenile Justice Review

Professor Nancy Maxwell, Washburn University School of Law, reviewed the Juvenile Offender Code (Attachment 7). She noted that two groups of children needed to be considered:

1. juvenile offenders who commit offenses that would be crimes if they were adults, ages ten to 17; and
2. children in need of care:
 - a. those children who are status offenders -- children who commit acts that if committed by adults would have absolutely no jurisdictional consequence;
 - b. children who have done nothing, but have had something done to them; and
 - c. children nine and under who have committed acts that would be crimes if they were adults, but are excluded from the Juvenile Offender Code because of their age, but treated instead as children in need of care.

She noted that juveniles ages 14-15 can be waived to be tried as an adult if the crime is a class A or B felony. She said Kansas was the same as most other states in this area. Some states say 16 is not a juvenile.

There are very few options for a child who continues to commit crimes, other than probation. The child gets the impression the law can do very little and they continue to commit crimes, maybe more serious offenses, and are suddenly placed in a secure detention facility. The child believes he has been led astray. Intermediate programs and steps are needed.

In regard to privacy of juvenile records for youth ages 13 and 14, it was asked whether it was better for the child not to have the public scrutiny. Professor Maxwell stated there are pros

and cons on the issue. The arguments are that a 12- to 13-year-old is still saveable and should not be stigmatized. She noted that there are more sophisticated 12- and 13-year-olds now who are committing more sophisticated crimes and should be publicly accountable for those crimes.

A Committee member stated the real problem in resolving many of the issues that deal with the Juvenile Code is to figure out the what the purpose of the code is and where punishment and public safety meets with the idea of rehabilitation.

Professor Maxwell stated that kids whose parents are fighting over them in custody battles are kids who end up as juvenile offenders. Some jurisdictions have family courts where anything that involves the family, including juvenile offenders, children in need of care (CINC), divorce, and custody is in one court.

In discussion of options for juveniles, Professor Maxwell stated that the state can pay now for programs to help kids stay in their homes and prevent them from going into the adult penal system, or the kids can end up in the adult system and then the state must pay for the most expensive care anywhere. She advocated helping kids who really can be rehabilitated.

She said that truancy should not be in the court system, but that SRS should handle these offenders. The court needs to be dealing with the more serious crimes.

Professor Maxwell suggested an amendment to K.S.A. 38-1633, which states that it is the right of the respondent to testify or to decline to testify. She said that was an incorrect statement of the law. The right to testify is misleading. The right to decline to testify is far more accurate.

Professor Maxwell gave an example of a child who did not come home one night. The parents looked for the child all night and all of the next day. At 5:00 p.m. they were told by friends their child had been implicated in a very serious crime. When parents called law enforcement officers, who had detained the child, and asked why they had not been notified since it had been 23 hours since the child was arrested, they were told law enforcement did not have to tell parents anything. She suggested an amendment to the code to require notification within 12 hours of any detention or bringing a child into custody.

Professor Maxwell stated there is no time frame between the time of a detention hearing and adjudication, or between a detention hearing and possibly a waiver to adult court. She suggested there should be some outside limits when these hearings and proceedings should be held. Time requirements for juveniles are very different than for adults who are guaranteed a right to a speedy trial.

Senator Moran announced there would be a public forum on crime in the evening and gave recognition to Senator Petty for announcing the arrangements. Senator Petty gave the Committee a brief overview of the agenda for the forum.

Mike Boyer, KBI, gave an overview of problems in regard to juvenile offenders and the amount of their criminal activity (Attachment 8). Information in Attachment 8 was taken from *Crime in Kansas*, published by KBI.

He explained that the difference between detention admission and jail admission which is reflected in the statistics is that detention admission is in a duly designated juvenile detention facility and jail admission is in the county jail.

Donna Whiteman, Secretary, Department of Social and Rehabilitation Services (SRS), explained the role that SRS has in dealing with youth who have committed juvenile offenses. Secretary Whiteman's testimony, as well as a list of conferees from SRS, are attached (Attachment 2).

She explained that Attachment A to her testimony contains a chart that reviews Colorado's new law and proposals which did not pass, and where Kansas stands with some of these items. Many of the things Colorado has just decided to do, Kansas has had in place for a number of years. She said that Kansas has been very progressive in those dispositional alternatives.

She also noted that Attachment B details the variety of options a judge has when a juvenile offender or child in need of care comes before the court.

She said one goal at SRS was to keep young people at youth centers longer. She said to achieve this goal, SRS has to be able to control admissions at the front end. Currently young people can get to the youth centers in one of two ways: (1) internally, SRS can recommend a young person go to the youth center; and (2) the court has the ability to directly commit young people to the youth center.

The question was asked whether there are too many misdemeanants coming into the youth center system over which SRS has no control and whether more serious offenders are being released in order to make room for the misdemeanants. Secretary Whiteman stated that each juvenile was looked at individually, but that currently some must be released or a facility will go over its capacity census. If an institution goes over capacity census, this has an impact on staff because there are too many youth and it stretches staff. The reason they are not keeping young people longer is because more misdemeanants are being sentenced to the facility.

She said SRS has relied upon detention beds as the primary means of treatment and has now realized that this is not as effective as it needs to be. She said that a community-based option could be a more effective way to manage the problem and that it is a great disservice to the youth if they are sent to the youth center because it is the only treatment facility around.

She said youth need structure but they do not need it in the confined setting of youth centers. Structures can be provided in the communities and there are wonderful examples of these in the state. Johnson County recently took ten of its detention beds and made them predispositional beds. Rather than sending youth to the Youth Center at Topeka (YCAT), they could provide the structure in their community. That facility is also working with the families of the youth.

Barry Allen, Superintendent at YCAT, introduced Thomas H., former student at YCAT, and Kapelle S., current student at YCAT. Thomas and Kapelle both spoke briefly about their experience at YCAT and responded to questions from the Committee.

Bill Sherlock, Substance Abuse Program Coordinator, Beloit (Attachment 10), reviewed the history of substance abuse programs at the youth centers and their current programming, and discussed some of their problems. Mr. Sherlock responded to questions from the Committee.

Mike Driscoll, Chief Social Worker, Youth Center at Atchison (YCAA) (Attachment 11), gave testimony on the day-reporting services for juvenile offenders in Kansas and responded to questions from the Committee.

Written testimony was received from Carrol Mills, Chief Psychologist, YCAT (Attachment 12), and Steve Crockett, Youth Service Director, Youth Center at Larned (Attachment 13).

Senator Moran thanked the conferees for taking the time to testify before the Committee. He reminded the Committee of the Open Forum on Crime at 7:00 p.m., in Room 313-S.

The meeting adjourned at 5:30 p.m.

**October 29, 1993
Morning Session**

The Senate Committee on Judiciary was called to order at 9:15 a.m.

State Senator Dottie Wham, Chairman of the Colorado Senate Judiciary Committee, spoke by a conference call on proposals and new legislation enacted at a recent special session of the Colorado Legislature on gun control and criminal activity. She said the proposals were a result of drive-by shootings and gang violence, where children were often the innocent victims (Attachment 14).

Senator Wham said that the gun control bill which was passed by Colorado made it a crime to possess a hand gun by a juvenile under age 18, with narrow exceptions, such as possession for hunting and target practice. No gun can be carried loaded. If a juvenile is picked up with a gun, he or she is taken to a detention center and held on a criminal commitment with the presumption that they are a danger to themselves or others. She stated that the constitutionality of the criminal commitment will be decided by a court. She said the new law allowed the police to hold that person up to 60 days before a trial. There must be a minimum sentence of five days.

She said Colorado passed a bill which takes the violent juveniles out of the youth services system and puts them into a youth offender system which is in the department of corrections. Juveniles 16 and over who commit certain felonies can be tried in adult court without going through a transfer proceeding. She said the judge will sentence the juvenile for the adult crime. The sentence could be suspended and the youth sentenced to the youth offender system for up to five years, with a year of intensive supervision to follow. If the offender successfully completes the sentence, he or she satisfies the adult sentence. The sentence is considered punitive. No privileges are granted until earned. Programs will be instituted to give juveniles one last chance not to spend the rest of their lives in prison. It also allows the youth services system to work for those who commit less serious crimes.

Senator Wham was asked in the case where a violent crime was committed if the juvenile would be automatically treated as an adult. She stated it would be at the discretion of the district attorney. When asked about the cost of the two proposals, Senator Wham said the gun bill will cost approximately \$22 million, and most of that cost will be for contract detention beds. A question was asked regarding the philosophical difference in treatment between the social welfare departments and the department of corrections. She said the youth services system was seen as a

social service system, where the corrections system is seen as punishment. She stated there has been difficulty in getting funding for adequate programs in corrections.

She said Colorado took away the anonymity for juveniles as far as the media is concerned. There used to be a strict law limiting use of names. Parents or legal guardians are now required to appear in court with the juvenile.

Senator Wham stated there was a bill passed two to three years ago which directed youth services to come up with a program similar to community corrections, but only for juveniles. There is a new facility opening which will take those juveniles who have committed a crime and have a drug or alcohol problem. She said there are halfway houses and diversion programs with partners, where men volunteer to work with boys in the community. She stated Colorado has one boot camp and will be getting another one with a little different structure.

Jim Clark, Executive Director, Kansas City and District Attorney Association, introduced members of his association's Juvenile Law Committee, Carol Langston and Sally Salgugero, both assistant district attorneys in Sedgwick County, to discuss items of concern and answer questions from the Committee (Attachment 15).

They were asked about the gun control ordinance in Wichita and its penalty. The ordinance states that possession of a firearm by a minor should be prosecuted through the juvenile offender code. It was pointed out by staff that the juvenile code was not clear on whether or not city ordinances could be prosecuted in district court. It was suggested that the Juvenile Offenders' Code should be amended to include municipal ordinances.

The question was asked about the number of juveniles who were going through court just on firearms possession, with no other criminal charges. It was stated that approximately 50 juveniles were charged in 1992 who were prosecuted for possession of firearms only.

Ms. Langston said the Sedgwick County detention center has such a short bed supply that juveniles are sentenced to the detention center but the person running it lets them go. She said SRS custody and youth center placement are requested, but the youth center has rejected the placements. Juveniles who have committed serious offenses have been released within 90 days from the youth center. She suggested legislation similar to Colorado's.

Ms. Langston stated there is a need for dispositional alternatives that would make parents accountable. She said the benefit of the day-reporting program is to free up beds in youth centers, but also to provide a program for watching and monitoring juveniles. She said the problem with the day-reporting program was that authorities know where the juvenile is only part of the time. She said juveniles in a bad environment do not have parents who will take the responsibility of watching them at home and there is a problem of who is responsible in day monitoring. There is not enough personnel to do a good job.

Sally Salgugero said that automatic referrals to this adult system should be for any juvenile offender who has had two prior felony adjudications and is over 16 years of age. She said they are not defined as a juvenile, but as an adult. Ms. Salgugero stated 14- and 15-year-olds, with or without any prior offenses, may have a referral hearing if they have committed an A or B felony.

Ruth O'Donnell, Site Manager of The Farm Inc., at Wakeeney, testified on the success of the first regional juvenile detention center and responded to questions from the Committee (Attachment 16).

Judge Frank Yoeman, Topeka, gave testimony with reference to juvenile offenders and handguns, the need for a facility of intermediate nature, and answered questions from the Committee (Attachment 17).

Judge James Burgess, Presiding Judge, Juvenile Department, 18th Judicial District, Sedgwick County, spoke about problems with the juvenile offender code and answered questions from the Committee (Attachment 18).

Judge Thomas H. Graver, Wellington, gave testimony on juvenile statutory considerations, continuum of care or services, and policy needs (Attachment 19) and answered questions from the Committee.

Senator Bob Vancrum extended an invitation to the Judiciary Committee to attend a public hearing on criminal justice and juvenile issues in Johnson County on November 17. Dinner will be provided at 6:00 p.m.

Afternoon Session

Elma Broadfoot, Mayor of Wichita, and authorized by Wichita USD 259 to represent it, addressed the Committee regarding juvenile justice issues and answered questions from the Committee (Attachment 20).

Paul Longhoefer, Assistant Superintendent for Communications for the Wichita School District, addressed the Committee in regard to juvenile violence and crime in the Wichita school system as it relates to future legislation and answered questions from the Committee (Attachment 21).

Ben Coates spoke to the Committee with regard to research he conducted this past summer on youth centers and answered questions. He said the first objective would be to determine the mission of the youth center and who would oversee the operation. Mr. Coates said he interviewed 45 children from youth centers ranging in age from 15 to 20, and children in out-of-home placements who had been moved 15 to 20 times, and most of whom were CINC children. He said one child who had been moved 33 times in 15 years, and screened four times in 36 months, because the last place would no longer keep him. He stated there was a real need for facilities for these children. He said the structural problem needed to be addressed. There are approximately 100,000 children (16 percent) in the State of Kansas who live below the poverty level. He said a family who earns more than \$6,500 per year is not eligible for ADC.

Gary Stotts, Secretary, Kansas Department of Corrections, addressed the Committee regarding inmates eligible for retroactivity and Larned Correctional Mental Health Facility. Secretary Stotts answered questions from the Committee (Attachment 22).

A question was asked of Secretary Stotts about a boot camp. Secretary Stotts said that Kansas had such a facility, Conservation Camp of Kansas, and it was funded through the Department of Corrections. There was further discussion on boot camp-type facilities.

A question was asked if SRDC was still necessary. Secretary Stotts said it was necessary to have the single intake and concentrate those assessment screening tools in one place.

The Committee discussed the retroactive provision of the sentencing guidelines.

The meeting adjourned at 3:50 p.m.

Prepared by Mike Heim

Approved by Committee on:

November 17, 1993

(date)

Status Report on Implementation of Sentencing Guidelines
presented by Secretary Stotts to the
Senate Judiciary Committee
October 28, 1993

- The Sentencing Guidelines Act, including its retroactive provisions, became effective on July 1, 1993. In June 1993 the Department of Corrections prepared a preliminary list of over 1,900 inmates who were identified as being potentially eligible for retroactivity, and distributed the list to district and county attorneys for review. Intended to give prosecuting attorneys as much lead time as possible to review cases, the June listing was not a final, definitive identification of inmates in the retroactive pool. Inmates have since been removed from the pool due to: updated criminal history information; application of special rules contained in 1993 amendments to the Sentencing Guidelines Act; and parole and other releases. Other inmates have since been added to the pool due to new court commitments for crimes committed prior to July 1, 1993 and admissions of parole or probation violators without new sentences.
- As provided by law, retroactive application of the Sentencing Guidelines Act is being implemented on a phased basis. Through October 22, 1993 the Department of Corrections has mailed a total of 1,715 sentencing guidelines reports to prosecutors, inmates and judges. Of the total mailings through that date, the distribution by severity level is as follows:

Severity Level (SL) 10	51
SL 9	617
SL 8	276
SL 7	729
SL 6	4
SL 5	25
SL 4 - Drug	11
SL 3 - Drug	2

Of the 1,715 offenders for whom reports have been mailed, 52 were convicted of a sex offense, 282 were convicted of other crimes against persons, 1,231 were convicted of property crimes, 25 were convicted of drug crimes, and 125 were convicted of other crimes.

- To date, prosecutors have requested hearings on 205 of the sentencing guidelines reports. Of those, 28 resulted in report revisions, 26 were dismissed, 1 was affirmed, 3 conversions were denied, and 124 are still pending. Also, 23 of the offenders in the group of 205 have since been paroled.

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- To date, 102 inmates have filed motions requesting hearings regarding the reports, including 37 inmates determined by KDOC to be in the retroactive pool and 65 inmates determined by KDOC to be excluded from the pool because of criminal histories or application of the special rules. In 27 of the inmate filings, the sentencing guidelines report has not yet been mailed by the department. Most of the hearing requests filed by inmates are still pending.
- Through October 22, 1993 a total of 524 inmates have been released due to retroactive provisions of the Sentencing Guidelines Act. The total of 524 includes 75 offenders convicted of person crimes (including nine with sex offenses), 387 convicted of property crimes, five convicted of drug offenses, and 57 convicted of other crimes.
- As of October 22, fourteen of the inmates released as a result of retroactivity have been returned to correctional facilities as post-release supervision violators without a new sentence. Also as of that date, 14 offenders released as a result of retroactivity were on absconder status. Twenty-four others released through retroactivity were in county jails or had been released on bond. Of these, seven had new felony charges, six had new misdemeanor charges, five were pending parole violation action, and six were on detainers due to previous offenses.
- As of October 22, the department estimates that sentencing guidelines reports have yet to be mailed for approximately 460 current inmates potentially eligible for sentence conversion under retroactive provisions. Of these, 211 were convicted of crimes against persons (including 58 sex crimes), 81 were convicted of property crimes, 161 were convicted of drug crimes, and seven were convicted of other crimes. Most of the offenders whose reports have not yet been mailed are in SL 5 & 6 in the non-drug grid and SL 4 in the drug grid.
- November 30, 1993 is the last scheduled date for sending sentencing guidelines reports on the current inmate population to prosecutors, judges and inmates. Reports will also be issued on November 2nd and November 15th. Inmates with reports issued on November 30th who have served to or past the mid-point of the guidelines sentence (adjusted for earned good time), will be eligible for release on the guidelines sentence on January 7, 1994, provided a hearing before the sentencing court has not been requested. After that date,

sentencing guidelines reports will continue to be prepared for eligible parole or probation violators as they are admitted.

- As of October 22, the department has received two new court commitments who have been sentenced under the Sentencing Guidelines Act, one for a SL 3 offense and the other, for a SL 9 offense.
- On October 22, the Kansas inmate population was 6,050, a decline of 190 since June 30, 1993. The systemwide operating capacity is 6,611.

SENTENCING RANGE - DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
IV	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Presumptive Imprisonment

Recommended probation terms are:

36 months for felonies classified in Severity Levels 1 - 3
24 months for felonies classified in Severity Level 4

Postrelease supervision terms are:

24 months for felonies classified in Severity Levels 1 - 3
12 months for felonies classified in Severity Level 4

1-4

SENTENCING RANGE - NONDRUG OFFENSES

Category→	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	204 194 185	193 183 173	178 170 161	167 158 150	154 146 138	141 134 127	127 122 115	116 110 104	103 97 92
II	154 146 138	144 137 130	135 128 121	125 119 113	115 109 103	105 100 95	96 91 86	86 82 77	77 73 68
III	103 97 92	95 90 86	89 85 80	83 78 74	77 73 68	69 66 62	64 60 57	59 55 51	51 49 46
IV	86 81 77	81 77 72	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	68 65 61	64 60 57	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND									
Presumptive Probation									
Border Box									
Presumptive Imprisonment									

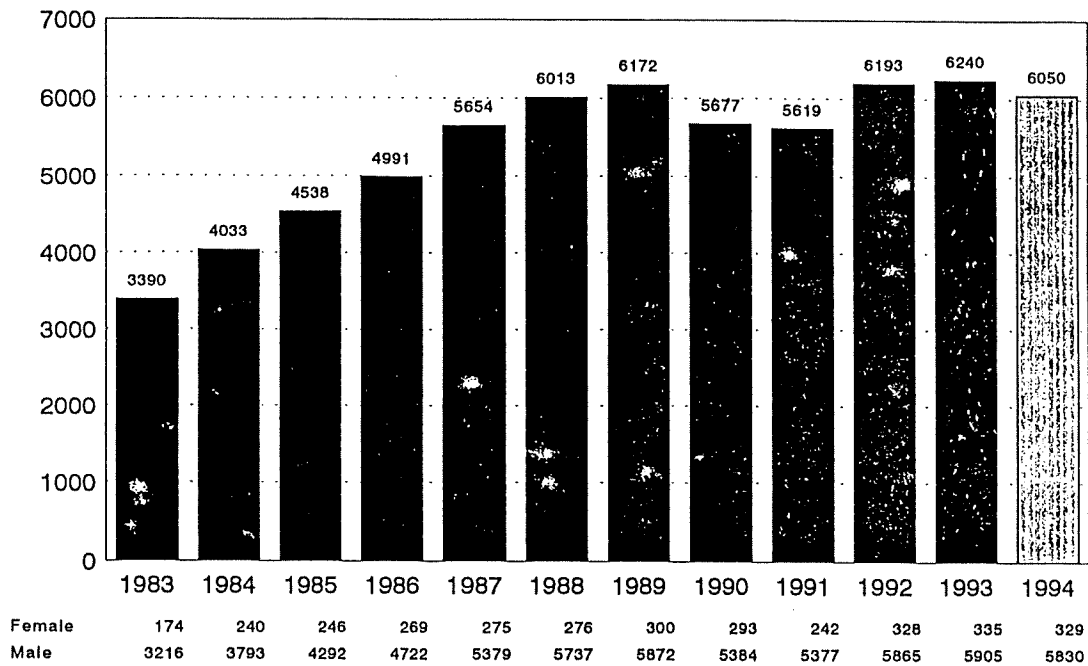
Recommended probation terms are:

12-36 months for felonies classified in Severity Levels 1 - 5
24 months for felonies classified in Severity Levels 6 - 10

Postrelease terms are:

24 months for felonies classified in Severity Levels 1 - 6
12 months for felonies classified in Severity Levels 7 - 10

Inmate Population: Fiscal Years 1984 - 1993, and 1994 To Date



The FY 1994 to-date figures reflect the inmate population levels as of October 22, 1993.

FELONY CRIMES
SORTED BY SEVERITY LEVEL

Statute	Description	F/M	Class	P/N	Level
21-3810(a)	Aggravated escape from custody; escaping while held in lawful custody upon a felony, etc.	F	E	N	8
21-3811	Aiding an escape	F	E	N	8
21-3812(a)	Aiding a felon	F	E	N	8
21-3812(b)	Aiding a person charged as a felon	F	E	N	8
21-3910	Misuse of public funds	F	D	N	8
21-4105	Incitement to riot	F	D	P	8
21-4202	Aggravated weapons violation; violation of 21-4201(a)(6), (a)(7), or (a)(8)	F	D	N	8
21-4219(a)	Criminal discharge of a firearm at unoccupied dwelling	F	E	N	8
21-4301a	Promoting obscenity to minors; second or subsequent offense	F	D	P	8
21-4304	Commercial gambling	F	E	N	8
21-4306	Dealing in gambling devices	F	E	N	8
21-4308	Installing communications facilities for gamblers	F	E	N	8
21-4405	Commercial bribery	F	E	N	8
25-2412	Elections; Election forgery	F	E	N	8
25-2423	Elections; Election tampering	F	E	N	8
65-2859	Healing Arts; Filing false documents	F	E	N	8
65-4141	Drugs; Arranging sale/purchase using communication facility	F	D	N	8
74-8717	Lottery; Forgery of lottery ticket	F	D	N	8
74-8810(j)	Parimutuel Racing; Prohibited Acts (l)(1) through (l)(15)	F	E	N	8
21-3414(a)(2)(B)	Aggravated battery - reckless, bodily harm	F	C	P	8
21-3612(a)(4)	Contributing to a child's misconduct; sheltering or concealing a runaway child	F	E	P	8
21-4204(a)(2)	Criminal possession of firearm; poss. of firearm w/barrel <12" by person convicted of felony w/in 5 yrs	F	D	N	8
21-4204(a)(3)	Criminal possession of firearm; poss. of firearm by person convicted of felony w/in 10 yrs	F	D	N	8
8-0262(a)	Driving while suspended-third or subsequent conviction	F	E	N	9
8-0287	Driving while a habitual violator	F	E	N	9
8-1567(f)	Driving Under Influence of Alcohol or Drugs - third or subsequent conviction	F	E	N	9
8-1568(b)	Fleeing or eluding a law enforcement officer - third or subsequent conviction	F	E	P	9
9-2004	Banking; Swear Falsely; Perjury other than in a felony trial	F	E	N	9
19-3519	Counties; Water Districts; fraudulent claims of at least \$500, but less than \$25,000	F	D	N	9
21-3406	Assisting suicide	F	E	P	9
21-3419	Criminal threat	F	E	P	9
21-3610b	Furnishing alcoholic beverages to a minor for illicit purposes; child <18 yoa	F	E	P	9
21-3611(a)	Aggravated juvenile delinquency; adjudicated child ≥16 yoa running away, escaping from SRS facility	F	E	N	9
21-3701	Theft; loss of < \$500, if in previous five yrs. offender has been convicted two or more times	F	E	N	9
21-3701	Theft; loss of ≥ \$500, but < \$25,000	F	E	N	9
21-3704	Theft of services; loss of ≥ \$500 but < \$25,000	F	E	N	9
21-3707	Giving a worthless check; loss of ≥ \$500 but < \$25,000	F	E	N	9
21-3707	Giving a worthless check; loss of < \$500, if in previous five yrs. offender convicted two or more times	F	E	N	9
21-3712	Destroying a written instrument	F	E	N	9
21-3713	Altering a legislative document	F	E	N	9
21-3715(c)	Burglary; motor vehicle, aircraft, or other means of conveyance	F	E	N	9
21-3720	Criminal damage to property; damage of property ≥ \$500 but < \$25,000	F	E	N	9
21-3729	Criminal use of a financial card; money, services, etc. w/in 7 day period ≥ \$500, but < \$25,000	F	E	N	9
21-3734	Impairing a security interest; value of ≥ \$500, but < \$25,000	F	E	N	9
21-3748	Piracy of recordings	F	E	N	9
21-3755(c)	Computer crime; loss of ≥ \$500, but < \$25,000	F	E	N	9
21-3756	Adding dockage or foreign material to grain	F	E	N	9
21-3757	Odometers; unlawful acts	F	E	N	9
21-3805(b)	Perjury; false statement made in a cause, matter or proceeding other than the trial of a felony charge	F	E	N	9
21-3808(b)	Obstructing legal process or official duty in the case of a felony, or resulting from parole, etc.	F	E	N	9
21-3815	Attempting to influence a judicial officer	F	E	N	9
21-3817	Corrupt conduct of a juror	F	E	N	9
21-3825	Aggravated false impersonation	F	E	N	9
21-3904	Presenting a false claim; ≥ \$500 but < \$25,000	F	E	N	9
21-3905	Permitting a false claim; ≥ \$500 but < \$25,000	F	E	N	9
21-4202	Aggravated weapons violation; violation of 21-4201(a)(1) through (a)(5) or (a)(9)	F	E	N	9
21-4209a	Criminal possession of explosives	F	D	N	9

FELONY CRIMES
SORTED BY SEVERITY LEVEL

<u>Statute</u>	<u>Description</u>	<u>F/M</u>	<u>Class</u>	<u>P/N</u>	<u>Level</u>
Nondrug Grid Crimes					
21-3401	Murder in the first degree	F	A	P	Offgrid
21-3801	Treason	F	A	P	Offgrid
21-3401	Attempted murder in the first degree (21-3301)	F	-	P	1
21-3402(a)	Murder in the second degree (intentional)	F	B	P	1
21-3421	Aggravated kidnapping	F	A	P	1
21-3801	Treason; Attempted (21-3301)	F	A	P	1
21-3401	Conspiracy to murder in the first degree (21-3302)	F	-	P	2
21-3402(b)	Murder in the second degree (reckless)	F	B	P	2
21-3801	Treason; Conspiracy (21-3302)	F	A	P	2
21-3502(a)(1)	Rape; sexual intercourse with a person who does not consent; overcome by force, fear, etc.	F	B	P	2
21-3502(a)(2)	Rape; sexual intercourse with a child <14 yoa	F	-	P	2
21-3506(a)(1)	Aggravated criminal sodomy; sodomy with a child <14 yoa	F	-	P	2
21-3506(a)(2)	Aggravated criminal sodomy; causing a child <14 yoa to engage in sodomy with a person or animal	F	-	P	2
21-3506(a)(3)	Aggravated criminal sodomy; sodomy with person who does not consent; overcome by force, etc.	F	-	P	2
21-3401	Solicitation to murder in the first degree (21-3303)	F	-	P	3
21-3403	Voluntary manslaughter	F	C	P	3
21-3415	Aggravated battery on LEO - intentional, great bodily harm (see 21-3414a1A)	F	B	P	3
21-3420	Kidnapping	F	B	P	3
21-3427	Aggravated robbery	F	B	P	3
21-3719	Aggravated arson; substantial risk of bodily harm	F	B	P	3
21-3801	Treason; Solicitation (21-3303)	F	A	P	3
21-3504(a)(1)	Aggravated indecent liberties w/child; ≥14 yoa, but <16 yoa; sexual intercourse	F	-	P	3
21-3504(a)(3)	Indecent liberties w/child; <14 yoa; lewd fondling or touching	F	-	P	3
21-3505(a)(2)	Criminal sodomy; sodomy with a child ≥14 yoa, but <16 yoa	F	-	P	3
21-3505(a)(3)	Criminal sodomy; causing child ≥14 yoa, but <16 yoa to engage in sodomy with a person or animal	F	-	P	3
21-3414(a)(1)(A)	Aggravated battery - intentional, great bodily harm	F	C	P	4
21-3504(a)(2)	Indecent liberties w/child; ≥14 yoa, but <16 yoa; lewd fondling or touching	F	-	P	4
New Section					
21-3404	Aggravated abandonment of a child; involves child <16 yoa resulting in great bodily harm	F	E	P	5
21-3404	Involuntary manslaughter	F	D	P	5
21-3426	Robbery	F	C	P	5
21-3518	Aggravated sexual battery; intentional touching, without consent, who is ≥16 yoa; force, fear, etc.	F	D	P	5
21-3609	Abuse of a child; involves child <18 yoa; intentional torture, cruelly beating, etc.	F	C	P	5
21-3716	Aggravated burglary	F	C	P	5
21-3718	Arson; damage resulting in loss of ≥ \$50,000	F	C	N	5
21-4219(c)	Criminal discharge of a firearm at occupied dwelling or vehicle resulting in bodily harm	F	C	P	5
21-3414(a)(2)(A)	Aggravated battery - reckless, great bodily harm	F	C	P	5
21-3503(a)(1)	Indecent liberties w/child; child ≥14 yoa, but <16 yoa; lewd fondling or touching	F	-	P	5
21-3503(a)(2)	Indecent liberties w/child; child ≥14 yoa, but <16 yoa; soliciting to engage in lewd fondling, etc.	F	-	P	5
21-3516(a)(1)	Sexual exploitation of a child; employing, etc. child <16 yoa to engage in sexually explicit conduct	F	D	P	5
21-3516(a)(2)	Sexual exploitation of a child; possessing visual medium of child <16 yoa engaging in such conduct	F	D	P	5
21-3516(a)(3)	Sexual exploitation of a child; guardian permitting child <16 yoa to engage in such conduct	F	D	P	5
21-3516(a)(4)	Sexual exploitation of a child; promoting performance of child <16 yoa to engage in such conduct	F	D	P	5
21-3603(a)(2)(A)	Aggravated incest; Otherwise lawful sexual intercourse or sodomy with relative ≥16 yoa, but <18 yoa	F	-	P	5
17-1253	Securities; Unlawful offers, sale, purchase (Penalties provided in 17-1267)	F	D	N	6
21-3411	Aggravated assault on law enforcement officer	F	C	P	6
21-3415	Aggravated battery on LEO - intentional, bodily harm or physical contact (see 21-3414a1B/C)	F	B	P	6
21-3511(a)	Aggravated indecent solicitation of a child; <14 yoa to commit or submit to unlawful sexual act	F	D	P	6
21-3511(b)	Aggravated indecent solicitation of a child; <14 yoa, inviting, etc. to enter secluded place	F	D	P	6
21-3513(b)	Prostitution; Promoting prostitution when prostitute is <16 yoa	F	D	P	6
21-3718	Arson; damage resulting in loss of ≥ \$25,000, < \$50,000	F	C	N	6
21-3719	Aggravated arson; no substantial risk of bodily harm	F	B	P	6

FELONY CRIMES
SORTED BY SEVERITY LEVEL

<u>Statute</u>	<u>Description</u>	<u>F/M</u>	<u>Class</u>	<u>P/N</u>	<u>Level</u>
21-4214	Obtaining a prescription only drug by fraudulent means; second or subsequent offense	F	D	N	9
21-4301	Promoting obscenity; second or subsequent offense	F	E	P	9
21-4406	Sports bribery	F	E	N	9
21-4408	Tampering with a sports contest	F	E	N	9
25-2411	Elections; Election perjury	F	E	N	9
25-2414	Elections; Possessing false or forged election supplies	F	E	N	9
25-2428	Elections; Destruction of election supplies	F	E	N	9
25-2429	Elections; Destruction of election papers	F	E	N	9
25-2431	Elections; False impersonation of a voter	F	E	N	9
40-0247	Insurance agent/broker failure to pay premium to company; loss of $\geq$ \$500, but $<$ \$25,000	F	E	N	9
40-0247	Insurance agent/broker failure to pay premium to company; loss of $<$ \$500, previous conv. w/in 5 yr	F	E	N	9
65-2861	Healing Arts; False swearing	F	E	N	9
65-4153(c)	Drugs; Sim controlled substances/paraphernalia; Deliver, or cause to be delivered, to child $<$ 18 yoa	F	E	N	9
65-4155(d)	Drugs; Representation noncontrolled substance is controlled; causing delivery to child $<$ 18 yoa, etc.	F	E	N	9
74-8718	Lottery; Unlawful sale of lottery ticket; second or subsequent offense	F	D	N	9
74-8719	Lottery; Unlawful purchase of lottery ticket; second or subsequent offense	F	D	N	9
21-3749(b)(2)	Dealing in pirated recordings; $\geq$ 7 audio-visual recordings or $\geq$ 100 sound recordings w/in 180 days	F	E	N	9
21-3750(b)(2)	Nondisclosure of source of recordings; $\geq$ 7 audio-visual or $\geq$ 100 sound recordings w/in 180 days	F	E	N	9
21-4111(b)(2)	Criminal desecration; same; loss of $\geq$ \$500, but $<$ \$25,000	F	E	N	9
21-4111(b)(3)	Criminal desecration; same; loss of $\geq$ \$500, but $<$ \$25,000	F	E	N	9
21-4111(b)(4)	Criminal desecration; same; loss of $\geq$ \$500, but $<$ \$25,000	F	E	N	9
21-4201(a)(6)	Criminal use of weapons; possessing any device, etc., used to silence the report of any firearm	F	E	N	9
21-4201(a)(7)	Criminal use of weapons; possessing, etc., shotgun w/barrel less than 18"; automatic weapons	F	E	N	9
21-4201(a)(8)	Criminal use of weapons; possessing, etc., cartridge w/plastic coated bullet that has core $<$ 60% lead	F	E	N	9
8-0116(c)	Vehicle identification numbers; destroying, altering, removing, etc. vehicle ID	F	E	N	10
8-0116(a)	Vehicle identification numbers; sale of vehicle w/ ID destroyed, removed, etc.	F	E	N	10
9-2010	Banking; Insolvent Bank Receiving Deposits	F	U	N	10
17-5412	Savings & Loans; Declaration of Dividends	F	U	N	10
17-5811	Savings & Loans; Accepting Payment When Capital Impaired	F	U	N	10
17-5812	Savings & Loans; Fraudulent Acts	F	U	N	10
21-3422(c)	Interference with parental custody in all other cases	F	E	P	10
21-3601	Bigamy	F	E	N	10
21-3602	Incest	F	E	P	10
21-3605	Nonsupport of a child or spouse	F	E	N	10
21-3736	Warehouse receipt fraud	F	E	N	10
21-3814	Aggravated failure to appear	F	E	N	10
21-3830	Dealing in false identification documents	F	E	N	10
21-3838	Unlawful disclosure of authorized interception of wire	F	E	N	10
21-4315(b)	Unlawful conduct of dog fighting	F	E	N	10
25-2420	Elections; Election fraud by an election officer	F	E	N	10
25-2421	Elections; Election suppression	F	E	N	10
25-2422	Elections; Unauthorized voting disclosure	F	E	N	10
25-2425	Elections; Voting machine fraud	F	E	N	10
25-2426	Elections; Printing and circulating imitation ballots	F	E	N	10
25-4414	Electronic/electromechanical voting system fraud	F	E	N	10
25-4612	Optical scanning equipment fraud	F	E	N	10
34-0293	Grain Storage; Unlawful issuance of receipt for warehouseman's grain	F	E	N	10
34-0295	Grain Storage; Negotiation of receipt for encumbered grain with intent to defraud	F	E	N	10
41-0405	Liquor; Warehouses; False Reports & Unlawful Removals	F	U	N	10
44-0619	Labor Act, Violations	F	U	N	10
47-0421	Animals; Unlawful Branding or Defacing of Brands	F	U	N	10
50-0122	Trade; Bucket Shops	F	U	N	10
50-0123	Trade; Transactions Declared to be Gambling & Criminal	F	U	N	10
50-0124	Trade; Transmitting Messages for Pretended Purchases or Sale	F	U	N	10
50-0125	Trade; Unlawful Acts	F	U	N	10
55-0156	Oil & Gas; Protection of water prior to abandoning well	F	E	N	10
55-0157	Oil & Gas; Cementing in of surface casing	F	E	N	10

FELONY CRIMES
SORTED BY SEVERITY LEVEL

<u>Statute</u>	<u>Description</u>	<u>F/M</u>	<u>Class</u>	<u>P/N</u>	<u>Lev</u>
21-3742(d)	Throwing objects from bridge or overpass; resulting in injury to a passenger of vehicle	F	D	P	6
21-3810(b)	Aggravated escape from custody; escape is facilitated by the use of violence or threat of violence	F	E	P	6
21-3826	Traffic in contraband in a correctional institution	F	E	N	6
21-3829	Aggravated interference with conduct of public business	F	D	P	6
21-3833	Aggravated intimidation of a witness or victim	F	E	P	6
21-4215	Obtaining a prescription only drug by fraudulent means for resale	F	C	N	6
65-3441(c)	Hazardous Wastes; Knowingly violates unlawful acts included in paragraphs 1-11, subsection (a)	F	C	N	6
9-2004	Banking; Swear Falsely; Perjury in a felony trial	F	D	N	7
17-1254	Securities; Unlawful acts (Penalties provided in 17-1267)	F	E	N	7
17-1255	Securities; Unlawful sale of unregistered securities (Penalties provided in 17-1267)	F	E	N	7
17-1264	Securities; Filing false or misleading statements (Penalties provided in 17-1267)	F	E	N	7
19-3519	Counties; Water Districts; fraudulent claims of \$25,000 or more	F	D	N	7
21-3410	Aggravated assault	F	D	P	7
21-3422a(b)	Aggravated interference with parental custody	F	D	P	7
21-3428	Blackmail	F	E	N	7
21-3513(b)	Prostitution; Promoting prostitution when prostitute is ≥ 16 yoa, second or subsequent conviction	F	E	P	7
21-3701	Theft; loss of $\geq$ \$25,000	F	D	N	7
21-3704	Theft of services; loss of $\geq$ \$25,000	F	D	N	7
21-3707	Giving a worthless check; loss of $\geq$ \$25,000	F	D	N	7
21-3715(a)	Burglary; building used as a dwelling	F	D	P	7
21-3715(b)	Burglary; building <u>not</u> used as a dwelling	F	D	N	7
21-3718	Arson; damage resulting in loss of $<$ \$25,000	F	C	N	7
21-3720	Criminal damage to property; damage of property $\geq$ \$25,000	F	D	N	7
21-3726	Aggravated tampering with a traffic signal	F	E	N	7
21-3729	Criminal use of a financial card; money, services, etc. w/in 7 day period $\geq$ \$25,000	F	D	N	7
21-3734	Impairing a security interest; value of $\geq$ \$25,000	F	D	N	7
21-3742(c)	Throwing objects from bridge or overpass; resulting in injury to a pedestrian	F	E	P	7
21-3755(c)	Computer crime; loss of $\geq$ \$25,000	F	D	N	7
21-3802	Sedition	F	D	N	7
21-3805(b)	Perjury; false statement is made upon the trial of a felony charge	F	D	N	7
21-3901	Bribery	F	D	N	7
21-3904	Presenting a false claim; $\geq$ \$25,000	F	D	N	7
21-3905	Permitting a false claim; $\geq$ \$25,000	F	D	N	7
21-4219(b)	Criminal discharge of a firearm at occupied dwelling or vehicle	F	D	P	7
21-4401	Racketeering	F	D	N	7
25-2409	Elections; Election bribery	F	D	N	7
25-2417	Elections; Bribery of an election official	F	D	N	7
25-2418	Elections; Bribe acceptance by an election official	F	D	N	7
40-0247	Insurance agent/broker failure to pay premium to company; loss of $\geq$ \$25,000	F	D	N	7
50-1013	Willful violation of loan broker article	F	E	N	7
21-3413(a)(2)	Battery against a correctional officer	F	E	P	7
21-3414(a)(1)(B)	Aggravated battery - Intentional, bodily harm	F	C	P	7
21-3414(a)(1)(C)	Aggravated battery - Intentional, physical contact	F	C	P	7
21-3510(a)(1)	Indecent solicitation of a child; ≥ 14 yoa & < 16 yoa to commit or submit to unlawful sexual act	F	-	P	7
21-3510(a)(2)	Indecent solicitation of a child; ≥ 14 yoa & < 16 yoa, inviting, etc. to enter secluded place	F	-	P	7
21-3603(a)(1)	Aggravated incest; Marriage to person < 18 yoa, who is a known relative	F	-	P	7
21-3603(a)(2)(B)	Aggravated incest; Lewd fondling and touching described in 21-3503 with relative ≥ 16 yoa, but < 18 yoa	F	-	P	7
21-3612(a)(5)	Contributing to a child's misconduct; causing, encouraging child < 18 yoa to commit a felony	F	D	P	7
21-4111(b)(2)	Criminal desecration; same; loss of $\geq$ \$25,000	F	D	N	7
21-4111(b)(3)	Criminal desecration; same; loss of $\geq$ \$25,000	F	D	N	7
21-4111(b)(4)	Criminal desecration; same; loss of $\geq$ \$25,000	F	D	N	7
21-3604	Abandonment of child; Involves child < 16 yoa	F	E	P	8
21-3710	Forgery	F	E	N	8
21-3711	Making a false writing	F	D	N	8
21-3731	Criminal use of explosives	F	E	P	8
21-3807(b)	Compounding a felony crime	F	E	N	8

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SORTED BY SEVERITY LEVEL

<u>Statute</u>	<u>Description</u>	<u>F/M</u>	<u>Class</u>	<u>P/N</u>	<u>Level</u>
55-0904	Oil & Gas; Disposal of salt water	F	E	N	10
58-3304	Property; Sale of Unregistered Sub-Divided Land	F	U	N	10
58-3315	Property; Uniform Land Sales Practices Act	F	U	N	10
65-3441(b)	Hazardous Wastes; Violation of unlawful acts included in paragraph 11, subsection (a)	F	E	N	10
66-0137	Utilities; Falsifying or Destroying Accounts/Records	F	U	N	10
75-4228	State Departments; Liability of Treasurer & Director of A&R	F	U	N	10
79-3228e	Taxation; Income Tax, Penalties & Interest	F	U	N	10
79-3834b	Taxation; Cereal Malt Beverages; Penalties	F	U	N	10
79-5204	Taxation; Drugs; Evidence of Tax Payment	F	U	N	10
Drug Grid Crimes					
65-4127a(c)	Opiates, Opium or Narcotic Drugs; Sale, etc.; third and subsequent offense	F	A	N	1D
65-4159	Drugs; Unlawfully manufacturing a controlled substance; third and subsequent offense	F	B	N	1D
65-4127a(c)	Opiates, Opium or Narcotic Drugs; Sale, etc.; second offense	F	B	N	2D
65-4127a(d)	Opiates, Opium or Narcotic Drugs; Poss. w/intent to sell, sale, etc. w/in 1,000' of school property	F	B	N	2D
65-4127b(d)	Depressants, stimulants, hallucinogenics, anabolic steroids; Sale, etc. w/in 1,000' of school property	F	B	N	2D
65-4159	Drugs; Unlawfully manufacturing a controlled substance; second offense	F	B	N	2D
65-4127a(b)	Opiates, Opium or Narcotic Drugs; Sale, etc.; first offense	F	C	N	3D
65-4127b(b)	Depressants, stimulants, hallucinogenics, anabolic steroids; Sale, offer for sale	F	C	N	3D
65-4159	Drugs; Unlawfully manufacturing a controlled substance; first offense	F	B	N	3D
65-4127a(a)	Opiates, Opium or Narcotic Drugs; Possession; first offense	F	C	N	4D
65-4127b(a)	Depressants, stimulants, hallucinogenics, anabolic steroids; Possession; second and subsequent	F	D	N	4D
65-4127b(c)	Substances in K.S.A. 65-4113; Sale, possession with intent to sell, deliver, etc. to a child <18 yoa	F	D	N	4D
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9-2002	Banking; Making False Reports of Statements	F	D	N	U
9-2012	Banking; Embezzlement; Intent to defraud	F	C	N	U
16-0633	Contract; Investment Certificates; Unlawful receipt of commission	F	C	N	U
16-0634	Contract; Investment Certificates; Unlawful receipt/possession of company property	F	C	N	U
16-0635	Contract; Investment Certificates; Unlawful acts pertaining to books/records	F	C	N	U
16-0640	Contract; Investment Certificates; Unlawful Acts or Omissions	F	C	N	U
59-2121(a)	Adoption; Knowingly/Intentionally Receiving/Accepting Excessive Fees	F	E	N	U



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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**Statement of
ROBERT T. STEPHAN
Attorney General
Re: Sentencing Commission and Guidelines
Before Senate Judiciary
October 28, 1993**

As Chairman of the Kansas Sentencing Commission, I am pleased to have the opportunity to set the record straight as to both the sentencing guidelines and the retroactivity provisions that were adopted by the Kansas Legislature.

When the Kansas Sentencing Commission commenced its work in 1989, the idea of retroactivity was not a part of the work envisioned by the Commission. We proceeded on the premise that penal institutions did not have as a primary or real purpose the rehabilitation of those incarcerated and that the public was best protected from violent predators, sex offenders and drug sellers by incapacitating them. It was determined that cells should contain as a first priority violent offenders, and that nonviolent offenders should generally be sanctioned or punished outside a penal facility. To this end, a grid sentencing program was developed and presented to the Legislature. No retroactive plan was presented by the Commission with the grid sentencing program and it has always been the intent of the Commission that violent offenders or offenders with significant criminal histories who are convicted of any crimes against persons would be subject to presumptive incarceration under the guidelines. As a matter of fact, the guidelines were meant to provide for a longer sentence than was on the average being served under the system as it existed at that time for these offenders.

I do not think that we should lose sight of the fact that the studies of the Sentencing Commission found that sentences, probation and parole were both racially and geographically discriminatory. This result was not a conscious discrimination on the part of the authorities involved but had resulted from societal considerations that had been placed in the law through legislative enactment. The goal of the Sentencing Commission was therefore also to develop a sentencing system based on the crime committed and not on the social factors possessed by an individual.

During consideration of the proposed guidelines by the Legislature, there was an insistence that retroactivity provisions be a part of the enactment of sentencing guidelines. I think it is fair to say that the

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Sentencing Commission had no philosophical objection to retroactivity, because it was a way to give us a head start on making more prison beds available more quickly for violent offenders and on addressing the discriminatory practices which had been identified, but the majority of the Commission felt that a plan should wait until the guidelines were put into effect in order to provide a more careful and studied approach to retroactivity. However, while the House version of the guidelines bill contained a total retroactivity provision, the Conference Committee developed the provision for partial retroactive application of the guidelines which ultimately became the law and took effect this past July 1.

It was never the intention of the Sentencing Commission that violent criminals should be prematurely released. In fact, the legislatively created retroactivity provision itself limits retroactive application of the guidelines to those offenders whose crime severity and criminal history would have entitled them to a presumption for probation had their crimes occurred on or after July 1, 1993. Furthermore, while concern has been expressed about the inclusion of some offenders who have been convicted of "person" crimes within the retroactivity provisions, this concern has been premised upon a misunderstanding of the designation of a crime as "person" or "nonperson" under the guidelines. These terms are simply criminal history designations which tell us something about the nature of the offender's prior convictions and the extent to which they will be counted against the offender in sentencing under the guidelines. A "person" crime is not necessarily a violent crime. For example, a residential burglary is a "person" crime even though there may not be any encounter at all between the perpetrator and the victim; because of the mere possibility of such an encounter and its possible impact, either physical or emotional, upon the victim, this crime has been designated as a "person" crime for criminal history purposes in recognition of that possibility. Furthermore, if one is released under the retroactive provisions, that person continues under post-release supervision for one year from release.

In order to attempt to prevent the premature release of a violent offender, safeguards were placed in the system. The Department of Corrections is to advise county and district attorneys as to those eligible for retroactive consideration thereby giving them an opportunity to object to retroactive release in an appropriate court. It has been estimated by the Department of Corrections that those included would have been eligible for parole or released within 90 to 120 days even if there were no retroactive provisions. In fact, a number of inmates have been paroled or conditionally released in accordance with pre-guidelines law before or during completion of the process of determining their status under the limited retroactivity provisions of the guidelines law.

SENATE JUDICIARY COMMITTEE

October 28, 1993

Testimony of Lisa Moots, Executive Director
Kansas Sentencing Commission

I hope that the combined assurances which you have already received this morning from Secretary of Corrections Stotts and Attorney General Stephan have allayed any fears you might have developed in response to certain incomplete or incorrect information recently disseminated in the media about the retroactivity provisions of the sentencing guidelines and the process of their implementation. As you are all well aware, one of the primary goals of the guidelines is to reserve prison beds for violent and drug offenders. The guidelines also seek to ensure that these offenders will occupy those beds for a long time. As Secretary Stotts has reminded us, the retroactivity provisions of the guidelines involve nothing more than emptying some of those prison beds of the less serious offenders who now occupy them a few months early to make room for those more serious offenders whose incapacitation through prison confinement appears necessary for public safety. Once again, the possibility of early release under the retroactivity provisions of the guidelines law is available only for those offenders presently serving prison sentences for crimes which, had they occurred on or after July 1, 1993, would have called for a presumptive nonprison sentence under guidelines in accordance with the severity level of the crimes and the criminal history of the offender. Furthermore, a determination by the Department of Corrections that an inmate may be entitled to the benefit of the retroactivity provisions is subject to challenge by the county or district attorney.

I believe that you should be proud of the Kansas Sentencing Guidelines Act. The Act appears to address the concerns about disparity and discrimination, the historical failure of sentences to truthfully reflect the seriousness of the crime and the real criminal history of the offender, and the inability to predict future prison populations in any meaningful way which led to the development of the guidelines in the first place.

As part of its continuing statutory mandate, the Sentencing Commission will monitor the effect of guidelines on these factors, provide progress reports to the Legislature, and recommend revisions to the law if the need arises. We have already provided extensive training statewide to all participants in the criminal justice system. We are presently in the process of preparing some proposed refinements, primarily procedural in nature, to the provisions of the Act for your consideration in the upcoming session. We are also in the process of establishing a computer program in the form of a prison population projection model which will enable us to provide you with estimates of future prison populations under the guidelines system. We anticipate that by next spring the guidelines will have been in effect long enough to permit us to begin making some reliable projections. In addition, we are working closely with the Department of Corrections and the KBI to improve the current system of maintaining and disseminating criminal history records, because this information is essential to sentencing under the guidelines. We are also currently conducting a study of community-based/intermediate (nonprison) sanctions, the results of which will also be reported to the Legislature.

As you discovered during the 1993 Session, there is room within the guidelines sentencing

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structure to address particular concerns about crime and punishment without sacrificing the integrity of the system itself and the advantages it offers. For example, when the issue arose last Session regarding the commission of drug offenses in the presence of minors, a departure factor was added to the guidelines making this an aggravating factor which can serve as a possible basis for enhancing the length of a prison sentence. When the issue was raised about offenders convicted of aggravated assault or aggravated battery for whom there would be a presumption for probation under the guidelines based on a relatively lesser degree of criminal intent of the offender or bodily harm to the victim as compared to more severe levels of the same offenses, a special rule was added to the guidelines law which eliminates that presumption for probation and calls for a prison term in any case in which the offense was committed with a firearm or against a law enforcement officer. In addition, while prior convictions for "nonperson" Class B misdemeanors do not otherwise count in an offender's criminal history under guidelines, further concerns about the criminal use of firearms led to another special rule that prior convictions for the three "select", "nonperson" Class B misdemeanors involving possession of firearms by drug addicts, on school grounds, or on the grounds or in the state capital would be counted. Furthermore, when questions have arisen about whether repeat property offenders will always have the benefit of a presumption for probation under guidelines, there has been recognition of the fact that an offender on probation who commits a new crime will not only receive a consecutive sentence for the new crime, but the revocation of the probation due to the new crime will also eliminate any presumption for probation otherwise associated with the new crime. I continue to hear concerns expressed about the effect of plea-bargaining and whether it is used to help offenders avoid the consequences of their actions; the guidelines Act prohibits any plea-bargaining which ignores any aspect of the offender's criminal history.

One other specific concern which is expected to arise in the upcoming Session and for which the guidelines Act already offers at least a partial solution involves sex offenders or sexual predators. The Act allows a sentencing court to impose an extended period of postrelease supervision of up to 60 months for offenders convicted of sexually violent or sexually motivated crimes where the statutorily provided period of postrelease supervision would otherwise be 12 or 24 months, depending on the severity level of the crime. The court can order treatment and any other appropriate supervision mechanism or condition of the period of postrelease supervision. One possible approach to dealing even more strictly with these offenders after their release from prison would be to mandate the extended period of postrelease supervision in these cases rather than simply having it available as a departure option for the sentencing court.

The Sentencing Commission is available to assist you in assessing the impact of any proposed amendments or additions to the Sentencing Guidelines Act which you may want to consider.

Other states are now taking a close look at the Kansas Sentencing Guidelines Act as an important example of an approach to felony sentencing that is equitable, consistent, predictable, and tough on violent and drug offenders.

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) 284-6888

October 27, 1993

The Honorable Jerry Moran, Chairman
Senate Committee on Judiciary
Statehouse
Topeka, KS 66612

Dear Senator Moran:

I am sorry that I cannot be with you on Thursday, October 28 for the meeting with judges concerning sentencing guidelines. I am in the middle of a projected four day jury trial, and cannot get away.

There are two or three observations which I would like to transmit to you and the committee in writing. The first of these is that in my opinion it is far too early to conduct an overall evaluation as to the impact of sentencing guidelines. I have personally only imposed one guideline sentence to date, and I suspect most judges have done only a handful under the new guidelines. I would strongly encourage the Legislature to wait two or three years and allow the Sentencing Commission to study the impact of guidelines before any radical surgery is performed on the act.

Second, as you are undoubtedly aware both the Sentencing Commission and the Ad Hoc Committee on Sentencing Guideline Procedures appointed by the Chief Justice are studying amendments designed to repair particular problem areas in the sentencing guidelines act. I believe that both groups will come up with a series of constructive recommendations to smooth out some of the early bumps in the road for sentencing guidelines. I would encourage the Legislature to pay careful attention to the recommendations of both groups.

Finally, I would strongly encourage you not to let the very visible problems and disputes concerning retroactive application of the guidelines obscure the fact that ultimately retroactivity is an issue which will have a short life-span. It seems to me that all of the problems associated with retroactivity were reasonably foreseeable, which is one of the reasons why the Sentencing Commission itself ultimately recommended against retroactivity. In another year the retroactivity dispute should be basically a thing of the past, but the impact of guidelines will go forward into the future indefinitely. This is simply a plea to keep in mind the long term impacts of any changes which are made in the guidelines, and not become overly distracted by the difficult and unpopular issues which have arisen concerning retroactivity.

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I appreciate the opportunity to provide my comments to you in this fashion.
If you have further questions which I can assist with, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard B. Walker". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard B. Walker
District Judge

RBW:rb

**Law Department**

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November 5, 1993

Chairman Jerry Moran
and Members of the Senate Judiciary Committee

RE: Mandatory Fingerprinting and Municipal Offenses

Thank you for permitting the City of Overland Park to present testimony concerning the mandatory fingerprinting requirements found at Sections 5 and 6 and 15 of Chapter 291 of the 1993 Session Laws.

We believe that the new fingerprinting provisions place a significant logistical burden on municipal courts. This burden stems from the fact most individuals charged with city ordinance violations that are comparable to Class A and B misdemeanors are not arrested or taken into custody by municipal police departments. As you know, K.S.A. 12-4212 permits the arrest of ordinance violators in very limited cases. Because these violators are not arrested, when they appear in court for their arraignment, they have not been processed or fingerprinted. The dilemma for the municipal court judge is how to insure these individuals who have never been in custody are processed and fingerprinted. If the judge orders the person to be fingerprinted and processed prior to a trial on the merits, there is arguably an appearance of prejudging the person. In addition, there may be legal issues concerning the existing authority of municipal judges to order a person who has not yet been found guilty, to be processed and fingerprinted. These issues are primarily focused on the statutory requirement that the court ensure fingerprinting and processing, "upon the offender's first appearance", rather than after conviction. The result of the existing statutory requirement is that persons that are found not guilty or perhaps not even brought to trial are required to be fingerprinted and processed, even though they were never arrested.

We suggest that the requirement for fingerprinting and processing be limited to those individuals actually "convicted" of ordinance violations comparable to Class A and B misdemeanors. While this would not necessarily

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eliminate all of the logistical issues, it would significantly reduce the scope of the problem. We believe it would also be helpful if the statute was more specific in identifying which ordinance violations were considered "comparable" to the statutory Class A and B misdemeanors. Many municipalities modify the language of the ordinance from that of the similar state statute. Whether these ordinance violations are "comparable" is debatable.

Our office is available to assist you as necessary in addressing these issues.

Sincerely,

Michael R. Santos
Senior Assistant City Attorney

cc: Ed Bilert, Mayor
Thomas C. Owens, Chairman Public Safety Committee
Don Pipes, City Manager
Bob Watson, City Attorney
Myron Scafe, Chief of Police
John Douglass, Assistant Chief of Police



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 SW 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Judiciary Committee
FROM: Don Moler, Senior Legal Counsel
RE: Fingerprinting Requirements and Municipal Offenses
DATE: October 28, 1993

I would like to thank the Committee for allowing the League to appear today to testify regarding the fingerprinting requirements found at Section 15 of Chapter 291 of the 1993 Session Laws of Kansas. Specifically of concern to cities is the requirement that every police department is required to make two sets of fingerprint impressions of a person who is **arrested** for violation of a municipal ordinance which would be the equivalent of a Class A or B misdemeanor under state law. Furthermore, subsection (b) requires that the court shall ensure, upon the offender's first appearance, or in any event before final disposition of a city ordinance which prohibits an act which prohibits a Class A or B misdemeanor, that the offender has been processed and fingerprinted. The League and its member cities raise the following concerns regarding these requirements.

First of all, we believe it is essentially impossible, given the constrictions of the municipal court procedures act (specifically K.S.A. 12-4212 which limits the arrest authority of police officers when arresting under ordinance violation authority) to obtain fingerprints of persons charged with A or B type offenses. Thus, unless an individual is arrested and taken to the county jail or other detention facility, it is impossible to obtain fingerprints on that individual unless each police officer carries a fingerprint kit with him or her and obtains the fingerprints at the scene of the infraction or offense. There is a further concern raised by League members regarding the fingerprinting of persons simply charged with a violation but not found guilty of any wrongdoing. We are concerned that this provision is unworkable and unenforceable as written and believe that it will not be followed because of the conflicting nature of the requirement with current law and the unworkability of the section.

Our concern with the second requirement, found in subsection (b) of Section 15, is simply that most municipal courts, whether in large or small cities, do not have immediate access to a fingerprint kit or machine. Thus, they would be unable to obtain fingerprints even at the point in the process where the individual is found guilty, without ordering the individual to be taken down to the county courthouse or jail for fingerprinting. We do not believe municipal court judges now have this authority. This is also a potential mandate on local governments in that if all 300 plus municipal courts were required to fingerprint at the time of a finding of guilt, it could require the purchase of kits which we are told cost around \$300. This would represent a cost for the kits in excess of \$90,000 statewide. This would be further exacerbated by the need (and expense) of having a trained person at each municipal court to take the fingerprint impressions.

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Finally we have a concern regarding the language "municipal ordinance which would be the equivalent of a Class A or B misdemeanor under state law." It is of concern to the League because a number of cities in Kansas do not simply adopt state statutes verbatim to enforce in municipal court, but rather take the state statutes and customize them to fit local situations. This is especially true in the larger cities. Given this fact, we are concerned with simply reporting convictions for what is a misdemeanor type offense, but which does not equate to the offense as defined in state statute.

At this time the League is not making any specific recommendations except to express significant concerns about these requirements. We urge the Committee to review these provisions and the public policy which is underlying the fingerprinting requirements and to consider repealing or reworking the current provisions.

KANSAS JUVENILE OFFENDERS CODE

K.S.A. 1992 SUPP. 38-1601 THRU 38-16,120

Courtesy of:
SRS Legal/Youth-Adult Services
May, 1993

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 - Prehearing, 38-1624
 - Youth Center, 38-1673, 38-1674, 38-1675
- Restitution, 38-1563
- Service of process. Process, service of, ante
- Statute of limitations, 38-1603
- Subpoenas, 38-1630
- Summons. Process, service of, ante
- Temporary custody. Custody, ante
- Traffic offenses,
 - Incarceration, 8-2117
 - Prosecution, 8-2117
- Treatment, 38-1614
 - Evaluation, 38-1662
- Trial. See subhead Hearings under Proceedings, ante
- Venue, 38-1605
- Videotaped statement, child victim, 38-1657, 38-1658

JUVENILE OFFENDERS - Continued

Warrant, 38-1625, 38-1631

Witness fees. Proceedings, ante

Youth Center at Atchison, K.S.A. 2101 et seq.

Youth Center at Larned, 75-3335(a)

Youth Center at Osawatomie, 75-3335(a)

Youth Center at Topeka, K.S.A. 2101 et seq.

38-134. Information concerning child provided to foster parent by secretary of social and rehabilitation services. (a) As used in this section:

(1) "Child" means a person under 18 years of age who has been removed from the home of a relative as a result of judicial determination and whose placement and care is the responsibility of the secretary.

(2) "Family foster home" means a private home in which care is given for 24 hours a day for children away from their parent or guardian and which is licensed under K.A.R. 28-4-311 et seq.

(3) "Foster family" means all persons living in the foster home other than foster children.

(4) "Foster parent" means the licensee who is responsible for the care of foster children.

(5) "Secretary" means the secretary of social and rehabilitation services.

(b) In order to assist the foster family to make an informed decision regarding their acceptance of a particular child, to help the foster family anticipate problems which may occur during the child's placement and to help the foster family meet the needs of the child in a constructive manner, the secretary shall seek to obtain and shall provide the following information to the foster parent as the information becomes available to the secretary:

(1) Strengths, needs and general behavior of the child;

(2) circumstances which necessitated placement;

(3) information about the child's family and the child's relationship to the family which may affect the placement;

(4) important life experiences and relationships which may affect the child's feelings, behavior, attitudes or adjustment;

(5) medical history of the child, including third-party coverage which may be available to the child; and

(6) education history, to include present grade placement, special strengths and weaknesses.

History: L. 1990, ch. 144, § 1; July 1.

KANSAS JUVENILE OFFENDERS CODE

* - 1992 Supplement

Article 16.—KANSAS JUVENILE OFFENDERS CODE

Reviser's Note:

The Judicial Council published comments on a preliminary draft of this code in the June, 1981, Judicial Council Bulletin. The comments show the source or prior law for many sections in this code.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394 (1988).

"A Quantitative and Descriptive Survey of Evidence Law in the Kansas Appellate Courts," Stanley D. Davis, 37 K.L.R. 715, 717 (1989).

"Juvenile Law: Prosecuting Juveniles As Adults," The Hon. Tom Malone, 60 J.K.B.A. No. 5, 39 (1991).

Attorney General's Opinions:

Reporting of abuse or neglect of children; court services officers. 89-100.

Juvenile offenders code; new trial. 89-137.

GENERAL PROVISIONS

- * **38-1601.** Construction of code. K.S.A. 38-1601 through 38-1685 shall be known and may be cited as the Kansas juvenile offenders code and shall be liberally construed to the end that each juvenile coming within its provisions shall receive the care, custody, guidance, control and discipline, preferably in the juvenile's own home, as will best serve the juvenile's rehabilitation and the protection of society. In no case shall any order, judgment or decree of the district court, in any proceedings under the provisions of this code, be deemed or held to import a criminal act on the part of any juvenile; but all proceedings, orders, judgments and decrees shall be deemed to have been taken and done in the exercise of the parental power of the state.

History: L. 1982, ch. 182, § 59; Jan. 1, 1983.

Research and Practice Aids:

Infants — 131 et seq.

C.J.S. Infants §§ 31, 33, 42, 50 to 54.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

Open records; law enforcement records; jail book, standard offense report, mug shots. 87-25.

Notification of public hearing to crime victim; juvenile offenders aged 16 or over. 90-54.

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

County attorney and county counselor; duties; juvenile matters. 92-67.

CASE ANNOTATIONS

1. No federal or state constitutional right to jury trial under juvenile offenders code. *Findlay v. State*, 235 K 462, 463, 681 P.2d 020 (1984).

2. Cited; authority to modify restitution under 38-1663 and juvenile's rights to due process upheld. *In re C.A.D.*, 11 K.A.2d 13, 711 P.2d 1336 (1985).

3. Cited; provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. *In re Mary P.*, 237 K 456, 701 P.2d 681 (1985).

4. Juvenile proceeding is civil proceeding, protective in nature and totally divorced from criminal implications. *State v. Muhammad*, 237 K 850, 854, 703 P.2d 835 (1985).

5. Cited; where defendant had no juvenile offender status because of prior adjudications (38-1602(b)(3)), court lacked jurisdiction under code. *State v. Lowe*, 238 K 755, 757, 758, 715 P.2d 404 (1986).

6. Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. *In re A.T.K.*, 11 K.A.2d 174, 176, 717 P.2d 528 (1986).

7. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

8. Cited; review by indigent defense services board of claims by appointed attorneys (22-4522) constitutional. *Clark v. Ivy*, 240 K 195, 202, 727 P.2d 493 (1986).

9. Failure of state to proceed hereunder deprived court of jurisdiction to accept guilty plea to crime committed before 18. *State v. Mayfield*, 241 K 555, 561, 738 P.2d 861 (1987).

10. Cited; legal obligation of county to provide counsel for indigent defendants charged with misdemeanors, hourly rate allowed examined. *Board of Osage County Comm'rs v. Burns*, 242 K 544, 545, 747 P.2d 1338 (1988).

11. Cited; 21-3732 relating to incendiary or explosive devices as not including device known as "torpedo" examined. *In re D.W.A.*, 244 K 114, 765 P.2d 704 (1988).

12. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauf Communications, Inc. v. Mitchell*, 246 K 492, 789 P.2d 1153 (1990).

- * **38-1602.** Definitions. As used in this code, unless the context otherwise requires:

(a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto; but does not include:

(1) A person 14 or more years of age who commits a traffic offense in violation of chapter 8 of the Kansas Statutes Annotated or any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a person 16 years of age or over who commits an offense defined in chapter 32 of the Kansas Statutes Annotated;

(3) a person 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in two separate prior juvenile proceedings as having committed an act which would constitute a felony if committed by an adult and the adjudications occurred prior to the date of the commission of the new act charged;

(4) a person who has been prosecuted as an adult by reason of subsection (b)(3) and whose prosecution results in conviction of a crime;

(5) a person whose prosecution as an adult is authorized pursuant to K.S.A. 38-1636 and amendments thereto; or

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto.

(c) "Parent," when used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) "Youth residential facility" means any home, foster home or structure which provides twenty-four-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which must not be a jail.

(g) "State youth center" means a facility operated by the secretary for juvenile offenders.

(h) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(i) "Secretary" means the secretary of social and rehabilitation services.

(j) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile

and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

History: L. 1982, ch. 182, § 60; L. 1983, ch. 140, § 29; L. 1986, ch. 162, § 1; L. 1987, ch. 112, § 37; L. 1989, ch. 95, § 9; L. 1990, ch. 146, § 3; L. 1990, ch. 150, § 6; Jan. 1, 1993.

Revisor's Note:

Section was also amended by L. 1990, ch. 146, § 3, effective May 3, 1990, but such amendment was repealed by L. 1990, ch. 150, § 14, effective Jan. 1, 1993.

Attorney General's Opinions:

Kansas safety belt use act. 86-95.

Prosecution of juvenile traffic offenders. 89-147.

County attorney and county counselor; duties; juvenile matters. 92-67.

CASE ANNOTATIONS

4. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" examined. *Reubke v. State*, 11 K.A.2d 353, 720 P.2d 1141 (1986).

5. Two prior adjudications as juvenile offender made in one hearing is one proceeding. *State v. Magness*, 240 K. 719, 720, 721, 722, 732 P.2d 747 (1987).

6. History of 8-2117 (juvenile traffic offenders) examined; limitations on length and places of incarceration determined. *State v. D.L.P.*, 13 K.A.2d 647, 652, 778 P.2d 851 (1989).

7. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

8. Driving with suspended license (8-262) held not a "traffic offense" as defined in 8-2117(d); minor over 14 years subject hereunder. *State v. Frazier*, 248 K. 963, 972, 811 P.2d 1240 (1991).

*

38-1603. Time limitations. (a) Proceedings under this code must be commenced within two years after the act giving rise to the proceedings is committed, except that proceedings involving acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3401 or 21-3402, and amendments thereto, may be commenced at any time.

(b) Except as provided by subsection (a), a proceeding under this code for any of the following acts committed by a juvenile which, if committed by an adult, would constitute a violation of any following statutes must be commenced within five years after its commission if the victim is less than 16 years of age: (1)

Indecent liberties with a child as defined in K.S.A. 21-3503, and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504, and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506, and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509, and amendments thereto; (5) indecent solicitation of a child as defined in K.S.A. 21-3510, and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511, and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516, and amendments thereto; or (8) aggravated incest as defined in K.S.A. 21-3603, and amendments thereto.

(c) The period within which the proceedings must be commenced shall not include any period in which:

- (1) The accused is absent from the state;
- (2) the accused is so concealed within the state that process cannot be served upon the accused; or
- (3) the fact of the offense is concealed.

History: L. 1982, ch. 182, § 61; L. 1991, ch. 116, § 1; July 1.

Research and Practice Aids:

Infants ¶ 193.

C.J.S. Infants §§ 42, 50 to 54.

* **38-1604. Jurisdiction.** (a) Except as provided in K.S.A. 38-1636 and 21-3611 and amendments thereto, proceedings concerning a juvenile who appears to be a juvenile offender shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When jurisdiction is acquired by the district court over an alleged juvenile offender it may continue until the juvenile (1) has attained the age of 21 years, (2) has been discharged by the court or (3) has been discharged under the provisions of K.S.A. 38-1675.

(d) Unless the court finds that substantial injustice would result, the provisions of this code shall govern with respect to acts done prior to the effective date of this code and with respect to juveniles alleged or adjudicated to have done the acts, to the same extent as if the acts had been done on or after the effective date and the juveniles had been alleged or adjudicated to be juvenile offenders.

History: L. 1982, ch. 182, § 62; Jan. 1, 1983.

Research and Practice Aids:

Infants ¶ 196.

C.J.S. Infants §§ 42, 53, 54.

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

CASE ANNOTATIONS

1. Statutory changes in 38-1602(b)(1) not retroactively applied to juvenile charged before change effective. *In re Hockenbury*, 9 K.A.2d 450, 452, 680 P.2d 561 (1984).

2. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

* **38-1605. Venue.** (a) Venue for adjudicatory proceedings in any case involving an alleged juvenile offender shall be in any county where any act of the alleged offense was committed.

(b) Except as provided in subsection (c), venue for dispositional proceedings in any case involving a juvenile alleged to be a juvenile offender shall be in the county of the juvenile's residence or, if the juvenile is not a resident of this state, in the county where the alleged offense was committed. When the dispositional hearing is to be held in a county other than the county where the alleged offense was committed, the adjudicating judge shall transmit the record of the adjudicatory hearing, and recommendations as to disposition, to the court where the dispositional hearing is to be held.

(c) If the adjudicatory hearing is held in a county other than the county of the juvenile's residence, the dispositional hearing may be held in the county in which the adjudicatory hearing is held if the adjudicating judge, upon motion by the complainant or any person authorized to appeal, finds that it is in the best interests of the juvenile offender and the community that the dispositional hearing be held in the county where the act was committed.

History: L. 1982, ch. 182, § 63; Jan. 1, 1983.

CASE ANNOTATIONS

1. Statute contemplates adjudicating court engaging in separate deliberation on venue; venue outside resident county only when best interests of juvenile are met. *In re A.T.K.*, 11 K.A.2d 174, 176, 717 P.2d 528 (1986).

2. Venue proper in either county where cause of death inflicted or county where death ensued. *In re J.W.S.*, 250 K. 65, 69, 70, 825 P.2d 125 (1992).

*

38-1606. Right to an attorney. (a) *Appointment of attorney to represent juvenile.* A juvenile charged under this code is entitled to have the assistance of an attorney at every stage of the proceedings. If a juvenile appears before any court without an attorney, the court shall inform the juvenile and the juvenile's parents of the right to employ an attorney. Upon failure to retain an attorney, the court shall appoint an attorney to represent the juvenile. The expense of the appointed attorney may be assessed to the juvenile or parent, or both, as part of the expenses of the case.

(b) *Continuation of representation.* An attorney appointed for a juvenile shall continue to represent the juvenile at all subsequent court hearings in the proceeding under this code, including appellate proceedings, unless relieved by the court upon a showing of good cause or upon transfer of venue.

(c) *Attorneys' fees.* Attorneys appointed hereunder shall be allowed a reasonable fee for services, which may be assessed as an expense in the proceedings as provided in K.S.A. 38-1613.

History: L. 1982, ch. 182, § 64; Jan. 1, 1983.

Research and Practice Aids:

Infants ⇐ 205.

C.J.S. Infants §§ 51, 52, 62 to 67.

Attorney General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

CASE ANNOTATIONS

1. Court may conduct hearing without voluntary waiver of appearance by juvenile if counsel is present. *State v. Muhammad*, 237 K. 850, 856, 703 P.2d 835 (1985).

2. Cited; legal obligation of county to provide counsel for indigent defendants charged with misdemeanors, hourly rate allowed examined. *Board of Osage County Comm'rs v. Burns*, 242 K. 544, 546, 747 P.2d 1338 (1988).

*

38-1607. Court records; preservation of records. [See Revisor's Note] (a) *Official file.* The official file of proceedings pursuant to this code shall consist of the complaint, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. The official file shall be kept separate from other records of the court. The official file shall be open for public inspection as to any juvenile 16 or more years of age at the time any act is alleged to have been committed. The official file shall be privileged as to any juvenile less than 16 years of age at the time any act is alleged to have been committed and shall not be disclosed directly or indirectly to anyone except:

(1) A judge of the district court and members of the staff of the court designated by the judge;

(2) parties to the proceedings and their attorneys;

(3) any individual, or any public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile;

(4) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties; and

(5) any other person when authorized by a court order, subject to any conditions imposed by the order.

(b) *Social file.* Reports and information received by the court other than the official file shall be privileged and open to inspection only by attorneys for the parties or upon order of a judge of the district court or an appellate court. The reports shall not be further disclosed by the attorney without approval of the court or by being presented as admissible evidence.

(c) *Preservation of records.* The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas juvenile offenders code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 16 or more years of age at the time an offense is alleged to have been committed by the juvenile. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 80 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)(5) and (b), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas juvenile offenders code.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

History: L. 1982, ch. 182, § 65; L. 1988, ch. 139, § 2; L. 1990, ch. 147, § 5; L. 1992, ch. 318, § 5; Jan. 1, 1993.

Revisor's Note:

Section was amended twice in 1992 session, see also 38-1607a.

Research and Practice Aids:

Infants — 133.

C.J.S. Infants §§ 57, 69 to 85.

Law Review and Bar Journal References:

"Expungement: Lies That Can Hurt You in and out of Court," Steven K. O'Hern, 27 W.L.J. 574, 578, 586, 589, 598 (1988).

Attorney General's Opinions:

Records of juveniles in NCIC system. 84-126.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 494, 789 P.2d 1153 (1990).

* **38-1607a.** Court records; preservation of records. [See Revisor's Note] (a) *Official file*. The official file of proceedings pursuant to this code shall consist of the complaint, process, service of process, orders, writs and journal entries reflecting hearings held and judgments and decrees entered by the court. The official file shall be kept separate from other records of the court. The official file shall be open for public inspection as to any juvenile 16 or more years of age at the time any act is alleged to have been committed. The official file shall be privileged as to any juvenile less than 16 years of age at the time any act is alleged to have been committed and shall not be disclosed directly or indirectly to anyone except:

(1) A judge of the district court and members of the staff of the court designated by the judge;

(2) parties to the proceedings and their attorneys;

(3) a public or private agency or institution having custody of the juvenile under court order;

(4) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties;

(5) the Kansas racing commission, upon written request of the commission chairperson, for the purpose provided by K.S.A. 74-8804 and amendments thereto; and

(6) any other person when authorized by a court order, subject to any conditions imposed by the order.

(b) *Social file*. Reports and information received by the court other than the official file shall be privileged and open to inspection only by attorneys for the parties or upon order of a judge of the district court or an appellate court. The reports shall not be further disclosed by the attorney without approval of the

court or by being presented as admissible evidence.

(c) *Preservation of records*. The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas juvenile offenders code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 16 or more years of age at the time an offense is alleged to have been committed by the juvenile. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 100 years after creation of the records, except as provided in subsections (a) and (b). Pursuant to subsections (a)(5) and (b), a judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas juvenile offenders code.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

History: L. 1982, ch. 182, § 65; L. 1988, ch. 139, § 2; L. 1990, ch. 147, § 5; L. 1992, ch. 286, § 14; July 1.

Revisor's Note:

Section was amended twice in 1992 session, see also 38-1607.

* **38-1608.** Records of law enforcement officers and agencies and municipal courts concerning certain juveniles. (a) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile under 16 years of age shall be kept readily distinguishable from criminal and other records and shall not be disclosed to anyone except:

(1) The judge and members of the court staff designated by the judge of a court having the juvenile before it in any proceedings;

(2) parties to the proceedings and their attorneys;

(3) the department of social and rehabilitation services;

(4) any individual, or any officer of a public or private agency or institution, having custody

of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile;

(5) law enforcement officers or county or district attorneys or their staff when necessary for the discharge of their official duties;

(6) the central repository, as defined by K.S.A. 22-4701 and amendments thereto, for use only as a part of the juvenile offender information system established under K.S.A. 38-1618 and amendments thereto; and

(7) any other person when authorized by a court order, subject to any conditions imposed by the order.

(b) The provisions of this section shall not apply to records concerning:

(1) A violation, by a person 14 or more years of age, of any provision of chapter 8 of the Kansas Statutes Annotated or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind;

(2) a violation, by a person 16 or more years of age, of any provision of chapter 32 of the Kansas Statutes Annotated; or

(3) an offense for which the juvenile is prosecuted as an adult.

(c) All records of law enforcement officers and agencies and municipal courts concerning a public offense committed or alleged to have been committed by a juvenile 16 or 17 years of age shall be subject to the same disclosure restrictions as the records of adults.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

History: L. 1982, ch. 182, § 66; L. 1983, ch. 140, § 30; L. 1984, ch. 157, § 2; L. 1990, ch. 147, § 6; L. 1992, ch. 318, § 6; Jan. 1, 1993.

Research and Practice Aids:

Infants $\Leftrightarrow$ 133.

C.J.S. Infants §§ 57, 69 to 85.

Attorney General's Opinions:

Records of juveniles in NCIC system. 84-126.

Open records; law enforcement records; jail book, standard offense report, mug shots. 87-25.

- * **38-1609.** Records of diagnostic, treatment or medical facilities concerning juvenile offenders. (a) The diagnostic, treatment or

medical records of any juvenile offender shall be privileged and shall not be disclosed except:

(1) Upon the written consent of the former juvenile or, if the juvenile offender is under 18 years of age, by the parent of the juvenile;

(2) upon a determination by the head of the treatment facility, who has the records, that disclosure is necessary for the further treatment of the juvenile offender;

(3) when any court having jurisdiction of the juvenile offender orders disclosure;

(4) when authorized by K.S.A. 38-1614 and amendments thereto; or

(5) when requested orally or in writing by any attorney representing the juvenile offender, but the records shall not be further disclosed by the attorney unless approved by the court or presented as admissible evidence.

(b) Willful violation of this section is a class C misdemeanor.

(c) Nothing in this section shall operate to extinguish any right of a juvenile offender established by attorney-client, physician-patient, psychologist-client or social worker-client privileges.

(d) Relevant information, reports and records shall be made available to the department of corrections upon request and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of the department of corrections.

History: L. 1982, ch. 182, § 67; L. 1990, ch. 147, § 7; July 1.

Research and Practice Aids:

Infants $\Leftrightarrow$ 133.

C.J.S. Infants §§ 57, 69 to 85.

- * **38-1610.** Expungement of records. (a) Except as provided in subsection (b), any records or files specified in this code concerning a juvenile offender may be expunged upon application to a judge of the court of the county in which the records or files are maintained. The application for expungement may be made by the person who is the juvenile offender or, if the person is a juvenile, by the person's parent or next friend.

(b) There shall be no expungement of records or files concerning acts committed by a juvenile which, if committed by an adult, would constitute a violation of K.S.A. 21-3503, 21-3504, 21-3506, 21-3509, 21-3510, 21-3511, 21-3516, 21-3603, 21-3608 or 21-3609 and amendments thereto or which would constitute an attempt to commit a violation of any of the offenses specified in this subsection.

(c) When a petition for expungement is filed, the court shall set a date for a hearing on the petition and shall give notice thereof to the county or district attorney. The petition shall state: (1) The juvenile's full name; (2) the full name of the juvenile at the time of the adjudication, if different than (1); (3) the juvenile's sex and date of birth; (4) the offense for which the juvenile was adjudicated; (5) the date of the adjudication; and (6) the identity of the adjudicating court. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner.

(d) (1) After hearing, the court shall order the expungement of the records and files if the court finds that:

(A) The person has reached 21 years of age or that two years have elapsed since the final discharge of the person;

(B) since the final discharge of the person, the person has not been convicted of a felony or of a misdemeanor other than a traffic offense or adjudicated a delinquent or miscreant under the Kansas juvenile code or a juvenile offender under the Kansas juvenile offenders code and no proceedings are pending seeking such a conviction or adjudication; and

(C) the circumstances and behavior of the petitioner warrant expungement.

(2) The court may require that all court costs, fees and restitution shall be paid.

(e) Upon entry of an order expunging records or files, the offense which the records or files concern shall be treated as if it never occurred, except that (1) the offense may be considered in determining whether a juvenile is a person described by subsection (b)(3) of K.S.A. 38-1602 and amendments thereto; and (2) upon conviction of a crime or adjudication in a subsequent action under this code the offense may be considered in determining the sentence to be imposed or disposition to be made. The person, the court and all law enforcement officers and other public offices and agencies shall properly reply on inquiry that no record or file exists with respect to the person. Inspection of the expunged files or records thereafter may be permitted by order of the court upon petition by the person who is the subject thereof. The inspection shall be limited to inspection by the person who is the

subject of the files or records and those persons designated by that person.

(f) Copies of any order made pursuant to subsection (a) or (c) shall be sent to each public officer and agency in the county having possession of any records or files ordered to be expunged. If the officer or agency fails to comply with the order within a reasonable time after its receipt, the officer or agency may be adjudged in contempt of court and punished accordingly.

(g) The court shall inform any juvenile who has been adjudicated a juvenile offender of the provisions of this section.

(h) Nothing in this section shall be construed to prohibit the maintenance of information relating to an offense after records or files concerning the offense have been expunged if the information is kept in a manner that does not enable identification of the offender.

(i) Nothing in this section shall be construed to permit or require expungement of files or records related to a child support order registered pursuant to the Kansas juvenile offenders code.

History: L. 1982, ch. 182, § 68; L. 1983, ch. 140, § 31; L. 1986, ch. 129, § 2; L. 1989, ch. 96, § 2; L. 1992, ch. 312, § 14; July 1.

Research and Practice Aids:

Infants — 133.

C.J.S. Infants §§ 57, 69 to 85.

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38-1611. Fingerprints and photographs.

(a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

(1) Fingerprints or photographs of the juvenile may be taken if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody for an offense which, if committed by a person 18 or more years of age, would make the person liable to be arrested and prosecuted for the commission of a felony as defined by K.S.A. 21-3105 and amendments thereto; and

(3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501 and amendments thereto if the juvenile has been:

(A) Prosecuted as an adult by reason of subsection (b)(3) of K.S.A. 38-1602 or K.S.A. 38-1636, and amendments thereto; or

(B) convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; or

(C) taken into custody for an offense described in subsection (b)(1) or (2) of K.S.A. 38-1602 and amendments thereto.

(b) Fingerprints and photographs taken under subsection (a)(1) or (2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsection (a)(3) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

(1) Fingerprints and photographs may be sent to a state or federal repository if authorized by a judge of the district court having jurisdiction;

(2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to a state or federal repository if taken under subsection (a)(2); and

(3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 38-1617 and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of a juvenile taken under the provisions of subsection (a)(2) as it existed before the effective date of this act may be sent to a state or federal repository on or before December 31, 1984.

(f) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to

be used in any action under the Kansas parentage act.

History: L. 1982, ch. 182, § 69; L. 1983, ch. 140, § 32; L. 1984, ch. 157, § 3; L. 1992, ch. 312, § 15; July 1.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

* **38-1612. Duties of county or district attorney.** It shall be the duty of each county or district attorney to prepare and file the complaint alleging a juvenile to be a juvenile offender and to prosecute the case.

History: L. 1982, ch. 182, § 70; Jan. 1, 1983.

CASE ANNOTATIONS

1. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

* **38-1613. Docket fee and expenses.** (a) *Docket fee.* The docket fee for proceedings under this code, if one is assessed as provided by this section, shall be \$16.50. Only one docket fee shall be assessed in each case.

(b) *Expenses.* The expenses for proceedings under this code, including fees and mileage allowed witnesses and fees and expenses approved by the court for appointed attorneys, shall be paid by the board of county commissioners from the general fund of the county.

(c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket fee may be assessed or waived by the court conducting the initial dispositional hearing and may be assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or the parent of the juvenile offender. Any docket fee received shall be remitted to the state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

(2) *Waiver and assessment.* Expenses may be waived or assessed against the complaining witness, the person initiating the prosecution, the juvenile offender or a parent of the juvenile offender. When expenses are recovered from a party against whom they have been assessed the general fund of the county shall be reimbursed in the amount of the recovery.

(3) *Prohibited assessment.* Docket fees or expenses shall not be assessed against the state, a political subdivision of the state, an agency of the state or of a political subdivision of the state or a person acting in the capacity of an employee of the state or of a political subdivision of the state.

(d) *Cases in which venue is transferred.* If venue is transferred from one county to another, the court from which the case is transferred shall send to the receiving court a statement of expenses paid from the general fund of the sending county. If the receiving court collects any of the expenses owed in the case, the receiving court shall pay to the sending court an amount proportional to the sending court's share of the total expenses owed to both counties. The expenses of the sending county shall not be an obligation of the receiving county except to the extent that the sending county's proportion of the expenses is collected by the receiving court. All amounts collected shall first be applied toward payment of the docket fee.

History: L. 1982, ch. 182, § 71; L. 1992, ch. 128, § 10; July 1.

Research and Practice Aids:
Infants ☞ 212.

C.J.S. Infants §§ 57, 69 to 85.

Attorney General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

* **38-1614. Health services.** (a) *Physical care and treatment.* (1) When the health or condition of a juvenile who is subject to the jurisdiction of the court requires it, the court may consent to the performing and furnishing of hospital, medical, surgical or dental treatment or procedures including the release and inspection of medical or dental records.

(2) When the health or condition of a juvenile requires it and the juvenile has been placed in the custody of a person other than a parent or placed in or committed to a facility, the custodian or an agent designated by the custodian shall have authority to consent to the performance and furnishing of hospital, medical, surgical or dental treatment or procedures including the release and inspection of medical or dental records, subject to terms and conditions the court considers proper. The provisions of this subsection shall also apply to juvenile felons, as defined in K.S.A. 1992 Supp. 38-16,112, and amendments thereto, who have been placed in a youth center pursuant to K.S.A. 75-5206, and amendments thereto.

(3) Any health care provider, who in good faith renders hospital, medical, surgical or dental care or treatment to any juvenile after a consent has been obtained as authorized by this section, shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to provide care and support for a juvenile.

(b) *Mental care and treatment.* If it is brought to the court's attention, while the court is exercising jurisdiction over the person of a juvenile under this code, that the juvenile may be a mentally ill person as defined in K.S.A. 59-2902, and amendments thereto, the court may:

(1) Direct or authorize the county or district attorney or the person supplying the information to file the application provided for in K.S.A. 59-2913, and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the treatment act for mentally ill persons; or

(2) authorize that the juvenile seek voluntary admission to a treatment facility as provided in K.S.A. 59-2905, and amendments thereto.

The application to determine whether the juvenile is a mentally ill person may be filed in the same proceedings as the petition alleging the juvenile to be a juvenile offender or may be brought in separate proceedings. In either event, the court may enter an order staying any further proceedings under this code until all proceedings have been concluded under the treatment act for mentally ill persons.

History: L. 1982, ch. 182, § 72; L. 1983, ch. 140, § 33; L. 1986, ch. 211, § 32; L. 1991, ch. 117, § 1; July 1.

Research and Practice Aids:

Infants ☞ 275.

C.J.S. Infants §§ 198 to 214.

* **38-1615. Age of juvenile, presumption.** When a complaint is filed under this code, a person who is alleged to be a juvenile shall be presumed to be a juvenile for the purposes of this code, unless the contrary is proved.

History: L. 1982, ch. 182, § 73; Jan. 1, 1983.

Research and Practice Aids:

Infants ☞ 172.

C.J.S. Infants §§ 58 to 61.

* **38-1616. Expense of care and custody of juvenile.** (a) *How paid.* (1) If a juvenile alleged or adjudged to be a juvenile offender is not eligible for assistance under K.S.A. 39-709 and amendments thereto, expenses for the care and custody of the juvenile shall be paid out of the general fund of the county in which the proceedings are brought. For the purpose of this section, a juvenile who is a nonresident of the state of Kansas or whose residence is unknown

shall have residence in the county where the proceedings are instituted.

(2) When a law enforcement officer has taken a juvenile into custody as authorized by subsection (a) of K.S.A. 38-1624 and amendments thereto and delivered the juvenile to a person or facility, other than a juvenile detention facility, designated by the secretary or when custody of a juvenile is awarded to the secretary, the expenses of the care and custody of the juvenile may be paid by the secretary out of the state social welfare fund, subject to payment or reimbursement as required in subsection (b), even though the juvenile does not meet the eligibility standards of K.S.A. 39-709 and amendments thereto.

(3) When the custody of a juvenile is awarded to the secretary of social and rehabilitation services, the expenses for the care and custody of the juvenile shall not be paid out of the county general fund.

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to support a juvenile.

(b) *Reimbursement to county general fund.*

(1) When expenses for the care and custody of a juvenile alleged or adjudged to be a juvenile offender have been paid out of the county general fund, the court may fix a time and place for hearing on the question of requiring payment or reimbursement of all or part of the expenses by a person who by law is liable to maintain, care for or support the juvenile.

(2) The court, after notice to the person who by law is liable to maintain, care for or support the juvenile, may hear and dispose of the matter and may enter an order relating to payment of expenses for care and custody of the juvenile. If the person willfully fails or refuses to pay the sum, the person may be adjudged in contempt of court and punished accordingly.

(3) The county may bring a separate action against a person who by law is liable to maintain, care for or support a juvenile alleged or adjudged to be a juvenile offender for the reimbursement of expenses paid out of the county general fund for the care and custody of the juvenile.

(c) *Reimbursement to state social welfare fund.* When expenses for the care and custody of a juvenile alleged or adjudged to be a juvenile offender have been paid out of the state social welfare fund, the secretary may recover the expenses pursuant to K.S.A. 39-709, 39-718a or 39-755, and amendments thereto, or K.S.A. 1992 Supp. 39-718b, and amendments thereto, or as otherwise provided by law, from any person who by law is liable to maintain, care for or support the juvenile.

The secretary shall have the power to compromise and settle any claim due or any amount claimed to be due to the secretary from any person who by law is liable to maintain, care for or support the juvenile.

History: L. 1982, ch. 182, § 74; L. 1983, ch. 140, § 34; L. 1984, ch. 157, § 5; L. 1985, ch. 115, § 42; L. 1991, ch. 112, § 3; July 1.

Research and Practice Aids:

Infants — 228.

C.J.S. Infants §§ 42, 53, 54, 57, 69 to 85.

CASE ANNOTATIONS

1. Exclusionary clause in insurance contract for "intentional" acts of mentally ill insured examined; liability for guardian ad litem fees discussed. *Shelter Mut. Ins. Co. v. Williams*, 248 K. 17, 20, 30, 804 P.2d 1374 (1991).

38-1617. Juvenile offender information system; definitions. As used in K.S.A. 38-1618 and amendments thereto, unless the context otherwise requires:

(a) "Central repository" has the meaning provided by K.S.A. 22-4701 and amendments thereto.

(b) "Director" means the director of the Kansas bureau of investigation.

(c) "Juvenile offender information" means data relating to juveniles alleged or adjudicated to be juvenile offenders, offenses committed or alleged to have been committed by juveniles in proceedings pursuant to the Kansas juvenile code or Kansas juvenile offenders code.

(d) "Juvenile justice agency" means any county or district attorney, law enforcement agency of this state or of any political subdivision of this state, court of this state or of a municipality of this state, administrative agency of this state or any political subdivision of this state, state youth center or juvenile detention facility.

(e) "Reportable event" means:

(1) Issuance of a warrant to take a juvenile into custody;

(2) taking a juvenile into custody pursuant to this code;

(3) release of a juvenile who has been taken into custody pursuant to this code, without the filing of a complaint;

(4) dismissal of a complaint filed pursuant to this code;

(5) an adjudication in a proceeding pursuant to this code;

(6) a disposition in a proceeding pursuant to this code;

(7) commitment to or placement in a youth residential facility, juvenile detention facility or state youth center pursuant to this code;

(8) release or discharge from commitment or jurisdiction of the court pursuant to this code;

(9) escape from commitment or placement pursuant to this code;

(10) entry of a judgment of an appellate court that reverses adjudication or disposition pursuant to this code;

(11) an order authorizing prosecution as an adult; or

(12) any other event arising out of or occurring during the course of proceedings pursuant to this code and declared to be reportable by rules and regulations of the director.

History: L. 1983, ch. 140, § 35; July 1.

* **38-1618.** Same; establishment and maintenance. (a) In order to properly advise the three branches of government on the operation of the juvenile justice system, there is hereby established within and as a part of the central repository, as defined by K.S.A. 22-4701 and amendments thereto, a juvenile offender information system. The system shall serve as a repository of juvenile offender information which is collected by juvenile justice agencies and reported to the system.

(b) Except as otherwise provided by this subsection, every juvenile justice agency shall report juvenile offender information, whether collected manually or by means of an automated system, to the central repository, in accordance with rules and regulations adopted pursuant to this section. A juvenile justice agency shall report to the central repository those reportable events involving a violation of a county resolution or city ordinance only when required by rules and regulations adopted by the director.

(c) Reporting methods may include:

(1) Submission of juvenile offender information by a juvenile justice agency directly to the central repository;

(2) if the information can readily be collected and reported through the court system, submission to the central repository by the office of judicial administrator; or

(3) if the information can readily be collected and reported through juvenile justice agencies that are part of a geographically based information system, submission to the central repository by the agencies.

(d) The director may determine, by rule and regulation, the reportable events to be reported by each juvenile justice agency, in order to avoid duplication in reporting.

(e) Juvenile offender information maintained in the juvenile offender information system is confidential and shall not be disseminated or publicly disclosed in a manner which enables identification of any individual who is a subject of the information, except that the information shall be open to inspection by law enforcement agencies of this state, by the department of social and rehabilitation services if related to an individual in the secretary's custody or control, by the department of corrections if related to an individual in the secretary's custody or control, by the officers of any public institution to which the individual is committed, by county and district attorneys, by attorneys for the parties to a proceeding under this code or upon order of a judge of the district court or an appellate court.

(f) Any journal entry of an adjudication of a juvenile to be a juvenile offender shall state the number of the statute under which the juvenile is adjudicated to be a juvenile offender and specify whether each offense, if done by an adult, would constitute a felony or misdemeanor, as defined by K.S.A. 21-3105 and amendments thereto.

(g) Any law enforcement agency that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(h) The director shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section.

(i) K.S.A. 38-1617 and amendments thereto and this section shall be part of and supplemental to the Kansas juvenile offenders' code.

History: L. 1983, ch. 140, § 36; L. 1984, ch. 157, § 4; L. 1986, ch. 159, § 2; L. 1990, ch. 149, § 2; July 1.

38-1619, 38-1620. Reserved.

PLEADINGS, PROCESS AND PRELIMINARY MATTERS

* **38-1621. Commencement of proceedings.** An action under this code shall be commenced by filing a verified complaint with the court and the issuance of process thereon.

History: L. 1982, ch. 182, § 75; Jan. 1, 1983.

CASE ANNOTATIONS

1. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

* **38-1622. Pleadings. (a) Complaint.** (1) Any person 18 or more years of age having knowledge of a juvenile who appears to be a juvenile offender may file with the court having jurisdiction a verified complaint, in writing, which shall state, if known:

(A) The name, date of birth and residence address of the juvenile;

(B) the name and residence address of the juvenile's parents;

(C) the name and residence address of any persons having custody or control of the juvenile, or the nearest known relative if no parent can be found;

(D) plainly and concisely the essential facts constituting the offense charged and, if the statement is drawn in the language of the statute, ordinance or resolution alleged to have been violated, it shall be considered sufficient; and

(E) for each count, the official or customary citation of the statute, ordinance or resolution which is alleged to have been violated, but error in the citation or its omission shall not be grounds for dismissal of the complaint or for reversal of an adjudication if the error or omission did not prejudice the respondent.

(2) The proceedings shall be entitled: "In the matter of _____, respondent."

(3) The complaint shall contain a request that the parent or parents of the juvenile be ordered to pay child support. The request for child support may be omitted with respect to a parent already ordered to pay child support for the juvenile or with respect to a respondent 18 years of age or more. The request for child support shall be omitted with respect to one or both parents upon written request of the secretary.

(4) The precise time of the commission of an offense need not be stated in the complaint; but it is sufficient if shown to have been within the statute of limitations, except where the time is an indispensable element of the offense.

(5) The prosecuting attorney shall endorse the names of all witnesses known to the attorney upon the complaint at the time of filing. The prosecuting attorney may endorse on the complaint the names of other witnesses that afterward become known to the attorney, at such times as the court prescribes by rule or otherwise.

(b) *Motions.* Motions may be made orally or in writing. The motion shall state with particularity the grounds for the motion and shall state the relief or order sought.

History: L. 1982, ch. 182, § 76; L. 1992, ch. 312, § 16; July 1.

Research and Practice Aids:

Infants — 197.

C.J.S. Infants § 55.

38-1623. Notice of defense of alibi or insanity. A respondent whose defense to the allegations in the complaint is that of alibi or insanity shall, within five days after the initial appearance and denial of the charges, give written notice to the county or district attorney and the court of the proposed defense. The notice shall include the names and addresses of witnesses that the respondent plans to call to provide evidence in support of the defense. Upon receipt of the notice, the court shall enter the orders that are appropriate under the circumstances, which may include an independent examination and report on the respondent claiming insanity. For good cause shown the court may permit notice at a later date.

History: L. 1982, ch. 182, § 77; Jan. 1, 1983.

* **38-1624. Juvenile taken into custody.** (a) *By a law enforcement officer.* A law enforcement officer may take an alleged juvenile offender into custody when:

(1) Any offense has been or is being committed by the juvenile in the officer's view;

(2) the officer has a warrant commanding that the juvenile be taken into custody;

(3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein; or

(4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:

(A) A felony; or

(B) a misdemeanor and (i) the juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody.

(b) *By a court services officer.* A court services officer may take a juvenile into custody when there is a warrant commanding that the juvenile be taken into custody or when the court services officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.

(c) *Procedure.* When any law enforcement officer takes an alleged juvenile offender into custody pursuant to subsection (a) without a warrant or court order and determines that the juvenile shall be detained or placed outside the juvenile's home, the juvenile shall be taken without unnecessary delay before the court for proceedings in accordance with this code or, if the court is not open for the regular conduct of business, to a court services officer, a juvenile detention facility or youth residential facility which the court or the secretary of social and rehabilitation services shall have designated. The officer shall not take the juvenile to a juvenile detention facility unless the juvenile meets one or more of the criteria listed in K.S.A. 38-1640. Even if the juvenile meets one or more of such criteria, the officer shall first consider whether taking the juvenile to an available nonsecure facility is more appropriate.

It shall be the duty of the officer to furnish the county or district attorney with all of the information in the possession of the officer pertaining to the juvenile; the juvenile's parents, or other persons interested in or likely to be interested in the juvenile; and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(d) *Release prior to detention hearing.* In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall have the authority to direct the release of the juvenile prior to the time specified by subsection (a) of K.S.A. 38-1632 and amendments thereto.

(e) *Person 18 or over taken into custody; detention and release.* Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the per-

son shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901 and amendments thereto relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

History: L. 1982, ch. 182, § 78; L. 1983, ch. 140, § 37; L. 1984, ch. 157, § 6; L. 1986, ch. 156, § 2; L. 1986, ch. 162, § 3; L. 1986, ch. 163, § 1; July 1.

Cross References to Related Sections:

Criteria for detaining juvenile in detention facility, see 38-1640.

Research and Practice Aids:

Infants — 192.

C.J.S. Infants §§ 42, 53, 54, 55.

* **38-1625. Proceedings upon filing of complaint.** Upon the filing of a complaint under this code, the court shall proceed by one of the following methods:

(a) The court may issue summons stating the place and time at which the respondent is required to appear and answer the offenses charged in the complaint, which shall be within 30 days of the date the complaint is filed, and deliver it with copies of the complaint attached to the sheriff or a person specially appointed to serve it.

(b) If the respondent is being detained for a detention hearing as provided in K.S.A. 38-1632, a copy of the complaint shall be served at the detention hearing on the respondent and each parent or other person with whom the respondent has been residing who is in attendance at the hearing and a record of the service made a part of the proceedings. The court shall announce the time that the respondent will be required to appear again before the court for further proceedings. If no parent appears at the hearing, the court shall summon the parent or parents as provided in subsection (a).

(c) If the court is without sufficient information to accomplish service of summons, the court may issue a warrant pursuant to K.S.A. 38-1631.

History: L. 1982, ch. 182, § 79; Jan. 1, 1983.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

CASE ANNOTATIONS

1. Censure of judge for failure to comply with provisions of statute noted. In re Long, 244 K. 719, 720, 772 P.2d 814 (1989).

- * **38-1626.** Summons; persons upon whom served; form. (a) *Persons upon whom served.* The summons and a copy of the complaint shall be served on the juvenile alleged to be a juvenile offender, the parents or parent having legal custody or who may be ordered to pay child support by the court, the person with whom the juvenile is residing, and any other person designated by the county or district attorney.

(b) *Form.* The summons shall be issued by the clerk, dated the day it is issued, contain the name of the court and the caption of the case and be in substantially the following form:

(Name of Court)

In the Matter of _____, Respondent Case No. _____

Date of birth _____

A _____ male _____ female under the age of 18 years.

S U M M O N S

TO:

(Juvenile)

(Father)

(Mother)

(Other having custody-relationship)

(Address)

A complaint has been filed in this court, a copy of which is attached.

On _____, 19____, at _____ o'clock _____m. the above-named juvenile and a parent and any other person having legal custody are required to appear before this court at _____. Failure to appear may cause the juvenile to be taken into custody and brought before the court.

The juvenile will be required to admit or deny the statements in the complaint. You have the right to hire an attorney to represent the above juvenile. If you do not hire an attorney, the court will appoint an attorney for the juvenile. The juvenile, parent or other person having legal custody of the juvenile may be required to repay the court for the expense of the appointed attorney. The court may order one or both parents to pay child support.

Date _____, 19____ Clerk of the District Court
(Seal) by _____

History: L. 1982, ch. 182, § 80; L. 1983, ch. 140, § 38; L. 1992, ch. 312, § 17; July 1.

Research and Practice Aids:

Infants ¶ 198.

C.J.S. Infants § 56.

Attorney General's Opinions:

Docket fees and expenses; recovery of court appointed attorney fees by county from parents of accused offender. 90-99.

- * **38-1627.** Service of process. Summons, notice of hearing or other process may be served by one of the following methods:

(a) *Personal service.* Personal service is completed by delivering a copy of the process personally to the person named therein.

(b) *Residential service.* Residential service is completed by leaving a copy of the process with a person of suitable age and discretion residing therein or in a conspicuous place at the usual place of residence of the person named therein at least 48 hours prior to the hearing for which the summons, notice or other process is issued.

(c) *Restricted mail service.* Service by restricted mail is completed upon mailing in accordance with the provisions of K.S.A. 60-103 and amendments thereto.

(d) *Regular mail service.* Service may be made by regular mail, addressed to the individual to be served at the usual place of residence of the person with postage prepaid, and is completed upon the person appearing before the court in response thereto. If the person fails to appear, the summons, notice or other process shall be delivered by personal, residential or restricted mail service.

History: L. 1982, ch. 182, § 81; Jan. 1, 1983.

Research and Practice Aids:

Infants ¶ 198.

C.J.S. Infants § 56.

- * **38-1628.** Proof of service. Proof of service shall be made as follows:

(a) *Personal or residential service.* (1) Every officer to whom summons or other process shall be delivered for service within the state shall make written report of the place, manner and date of service of the process in substantially the following form:

REPORT OF SERVICE

I certify that a true copy of the above summons and a copy of the complaint were served on the persons above named in the manner and on the dates indicated below:

Name	Location of Service	Manner of Service	Date of Service
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Date Returned: _____ 19____
Sheriff of _____ County, Kansas
by _____
(Title)

(2) If the process is, by order of the court, delivered to a person other than an officer for service, the person shall report the place, manner and time of service by affidavit.

(b) *Service by mail.* The clerk or a deputy clerk shall make service by mail and shall make written report of the service in substantially the following form:

CERTIFICATE OF MAILING

On _____ 19____ I mailed a copy of the above (summons or other process) and a copy of the (complaint or other pleading) described therein to each of the parties named therein at the address indicated on the process:

- * [] By placing in an envelope properly addressed and delivering the same to the United States Postal Service for delivery with postage prepaid.
- * [] By registered or certified mail of the United States Postal Service endorsed "return receipt requested showing address where delivered" and "deliver to addressee only" with all appropriate fees paid.

Date: _____ 19____

(Deputy) Clerk of the District Court

* Check [X] paragraph to indicate method used.

(c) *Amendment of report.* The judge may allow an amendment of a report of service at any time and upon the terms as are deemed just to reflect correctly the true manner of service.

History: L. 1982, ch. 182, § 82; Jan. 1, 1983.

Research and Practice Aids:

Infants = 198.

C.J.S. Infants § 56.

33-1629. Service of other pleadings. (a) *Proceedings upon filing.* Upon the filing of a subsequent pleading requesting or indicating the necessity for a hearing, the court shall fix the time and place for the hearing.

(b) *Form of notice.* The notice of hearing shall be given by the clerk, dated the day it is issued, contain the name of the court and the caption in the case and be substantially in the following form:

(Name of Court)

(Caption of Case)

NOTICE OF HEARING

TO:

_____	_____
(Juvenile)	
_____	_____
(Father)	
_____	_____
(Mother)	
_____	_____
(Other having custody— relationship)	(Address)

This court has received a _____

(describe pleading)

a copy of which is attached, which will require a hearing before the court.

On _____ 19____ at _____ o'clock _____ m. at _____ the court will hear this matter.

The above named juvenile and a parent and any other person having legal custody of the juvenile are required to be present. Failure to appear may cause the juvenile to be taken into custody and brought before the court.

Date: _____ 19____ Clerk of the District Court
by _____

(Seal)

(c) *Method and report of service.* Notice of hearing and motions or other pleadings subsequent to the complaint shall be served and report of service shall be made in the same manner as service of the complaint and summons.

History: L. 1982, ch. 182, § 83; Jan. 1, 1983.

33-1630. Subpoenas and witness fees.

(a) A party shall be entitled to the use of subpoenas and other compulsory process to obtain the attendance of witnesses. Except as otherwise provided by this code, the subpoenas and other compulsory process shall be issued and served in the same manner and the disobedience thereof shall be punished the same as in other civil cases.

(b) The court shall have the power to compel the attendance of witnesses from any county in the state for proceedings under this code.

(c) Only witnesses who have been subpoenaed shall be allowed witness fees and mileage. No witness shall be entitled to be paid the fee or mileage before the witness' actual appearance at court.

History: L. 1982, ch. 182, § 84; Jan. 1, 1983.

33-1631. Issuance of warrant. If the court finds there is probable cause to believe that an offense was committed and that it was committed by the respondent, or that a person has absconded while on probation or escaped from a facility or person vested with that person's legal custody or supervision pursuant to this code or the Kansas juvenile code for a nonstatus offense, the court may issue a warrant commanding that the respondent or person be taken into custody and brought before the court. The warrant shall designate where or to whom the respondent or person is to be taken if the court is not open for the regular conduct of business. The warrant shall describe the offense charged in the complaint or the applicable circumstances of the person's absconding or escaping.

History: L. 1982, ch. 182, § 85; Jan. 1, 1983.

Attorney General's Opinions:

Custody requirement for taking juvenile fingerprints for felony-type offenses. 85-96.

* **38-1632.** Detention hearing; waiver; notice; procedure. (a) *Length of detention.* (1) Whenever an alleged juvenile offender is taken into custody and is thereafter taken before the court or to a juvenile detention facility or youth residential facility designated by the court, the juvenile shall not remain detained for more than 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the initial detention was imposed, unless the court determines after hearing, within the 48-hour period, that further detention is necessary.

(2) If a juvenile is detained in jail pursuant to subsection (b) of K.S.A. 1992 Supp. 38-1691 and amendments thereto, the detention hearing required by this section shall be held within 24 hours after the juvenile is taken into custody.

(b) *Waiver of detention hearing.* The right of a juvenile to a detention hearing may be waived if the juvenile and the attorney for the juvenile consent in writing to waive the right to a detention hearing and the judge approves the waiver. Whenever the right to a detention hearing has been waived, the juvenile, the attorney for the juvenile or the juvenile's parents may reassert the right at any time not less than 48 hours prior to the time scheduled for adjudication by submitting a written request to the judge. Upon request, the judge shall immediately set the time and place for the hearing, which shall be held not more than 48 hours after the receipt of the request excluding Saturdays, Sundays and legal holidays.

(c) *Notice of hearing.* Whenever it is determined that a detention hearing is required the court shall immediately set the time and place for the hearing. Except as otherwise provided by subsection (b)(1) of K.S.A. 1992 Supp. 38-1691 and amendments thereto, notice of the detention hearing shall be given at least 24 hours prior to the hearing, unless waived, and shall be in substantially the following form:

(Caption of Case) (Name of Court)
NOTICE OF DETENTION HEARING
TO:

_____	_____
(Juvenile)	
_____	_____
(Father)	
_____	_____
(Mother)	
_____	_____
(Other having custody- relationship)	(Address)

On _____, 19____, at _____ o'clock ____m.

(day) (date)
there will be a hearing for the court to determine if there is a need for further detention of the above named juvenile. Each parent or other person having legal custody of the juvenile should be present at the hearing which will be held at _____.

You have the right to hire an attorney to represent the above juvenile. Upon failure to hire an attorney the court will appoint an attorney for the juvenile and the juvenile, parent or other person having legal custody of the juvenile may be required to repay the court for the expense of the appointed attorney. The court may order one or both parents to pay child support.

Date: _____, 19____ Clerk of the District Court
by _____

(Seal)

REPORT OF SERVICE

I certify that I have delivered a true copy of the above notice on the persons above named in the manner and at the times indicated below:

Name	Location of Service (other than above)	Manner of Service	Date	Time
------	---	----------------------	------	------

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

Date Returned: _____, 19____

(Signature)

(Title)

(d) *Oral notice.* When there is insufficient time to give written notice, oral notice may be given and is completed upon filing a certificate of oral notice with the clerk in substantially the following form:

(Name of Court)

(Caption of Case)

CERTIFICATE OF ORAL NOTICE OF DETENTION HEARING

I gave oral notice that the court will hold a hearing at _____ o'clock ____m. on _____, 19____, to the persons listed, in the manner and at the times indicated below:

Name	Relationship	Date	Time	Method of Communication (in person or telephone)
------	--------------	------	------	---

_____	_____	_____	_____	_____
-------	-------	-------	-------	-------

I advised each of the above named persons that:

- (1) The hearing is to determine if the above named juvenile shall be detained;
- (2) each parent or person having legal custody should be present at the hearing;
- (3) they have the right to hire an attorney of their own choice for the juvenile;
- (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
- (5) the juvenile, parent or other person having custody of the juvenile may be required to repay the court for the expense of the appointed attorney; and
- (6) the court may order one or both parents to pay child support.

(Signature)

(Name Printed)

(Title)

(e) *Hearing, finding, bond.* At the time set for the detention hearing if no retained attorney is present to represent the juvenile, the court shall appoint an attorney for the juvenile, and may recess the hearing for 24 hours to obtain attendance of the attorney appointed unless the juvenile is detained in jail pursuant to subsection (b)(1) of K.S.A. 1992 Supp. 38-1691 and amendments thereto. At the detention hearing, if the court finds the juvenile is dangerous to self or others, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate. If the court finds the juvenile is not likely to appear for further proceedings, the juvenile may be detained in a juvenile detention facility or youth residential facility which the court shall designate or may be released upon the giving of an appearance bond in an amount specified by the court and on the conditions the court may impose, in accordance with the applicable provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and amendments thereto. In the absence of either finding, the court shall order the juvenile released or placed in temporary custody as provided in subsection (f).

In determining whether to place a juvenile in a juvenile detention facility pursuant to this subsection, the court shall consider all relevant factors, including but not limited to the criteria listed in K.S.A. 38-1640 and amendments thereto. If the court orders the juvenile to be detained in a juvenile detention facility, the court shall record the specific findings of fact upon which the order is based.

If detention is ordered and the parent was not notified of the hearing and did not appear and later requests a rehearing, the court shall rehear the matter without unnecessary delay.

(f) *Temporary custody.* If the court determines that it is not necessary to detain the juvenile but finds that release to the custody of a parent is not in the best interests of the juvenile, the court may place the juvenile in the temporary custody of a youth residential facility, the secretary or some other suitable person willing to accept temporary custody.

History: L. 1982, ch. 182, § 86; L. 1986, ch. 162, § 4; L. 1990, ch. 150, § 1; L. 1992, ch. 312, § 19; Jan. 1, 1993.

Revisor's Note:

Section was also amended by L. 1992, ch. 312, § 18, effective July 1, 1992, but such amendment was repealed by L. 1992, ch. 312, § 42, effective Jan. 1, 1993.

Research and Practice Aids:

Infants — 203.

C.J.S. Infants §§ 51, 52, 62 to 67.

Attorney General's Opinions:

Confinement of juveniles in adult jails; potential liability of local officials. 90-63.

CASE ANNOTATIONS

1. The hearing referred to in 38-1652 as meaning only adjudicatory hearings for those over 15 determined. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 493, 789 P.2d 1153 (1990).

* **38-1633. Pretrial hearings.** (a) When the respondent appears in response to a complaint without an attorney, the court shall inform the respondent of the following:

(1) The nature of the charges in the complaint;

(2) the right to hire an attorney of the respondent's own choice;

(3) the duty of the court to appoint an attorney for the respondent if no attorney is hired by the respondent or parent; and

(4) that the court may require the respondent or parents to pay the expense of a court appointed attorney.

Upon request the court shall give the respondent or parent an opportunity to hire an attorney. If no request is made or the respondent or parents are financially unable to hire an attorney, the court shall forthwith appoint an attorney for the respondent. The court shall afford the respondent an opportunity to confer with the attorney before requiring the respondent to plead to the allegations of the complaint.

(b) When the respondent appears with an attorney in response to a complaint, the court shall require the respondent to admit or deny the allegations stated in the complaint or plead *nolo contendere*, unless there is an application for and approval of a diversion program. Prior to making this requirement, the court shall inform the respondent of the following:

(1) The nature of the charges in the complaint;

(2) the right of the respondent to be presumed innocent of each charge;

(3) the right to trial without unnecessary delay and to confront and cross-examine witnesses appearing in support of the allegations of the complaint;

(4) the right to subpoena witnesses;

(5) the right of the respondent to testify or to decline to testify; and

(6) the dispositional alternatives the court may select as the result of an adjudication.

(c) If the respondent admits the allegations contained in a complaint or pleads *nolo contendere*, the court shall determine, before accepting the admission or plea and entering an order of adjudication: (1) That there has been a voluntary waiver of the rights enumerated in subsections (b)(2), (3), (4) and (5); and (2) that there is a factual basis for the admission or the plea of *nolo contendere*.

(d) If allegations of the complaint are denied, the court shall schedule a time and date for trial to the court.

History: L. 1982, ch. 182, § 87; Jan. 1, 1983.

Research and Practice Aids:

Infants = 203.

C.J.S. Infants §§ 51, 52, 62 to 67.

CASE ANNOTATIONS

1. Cited; failure to advise about expungement rights (21-4619) and appeal rights (38-1681) when defendant no longer "juvenile offender" (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 354, 720 P.2d 1141 (1986).

2. Court expressly required to inform minor of information specifically contained in statute; reliance upon defense counsel insufficient. *In re B.S.*, 15 K.A.2d 338, 339, 807 P.2d 692 (1991).

* **38-1634. *Nolo contendere*.** A plea of *nolo contendere* is a formal declaration that the respondent does not contest the charge. When a plea of *nolo contendere* is accepted the court shall adjudge the respondent to be a juvenile offender. The plea cannot be used against the respondent as an admission in any other action based on the same act.

History: L. 1982, ch. 182, § 88; Jan. 1, 1983.

CASE ANNOTATIONS

1. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. *State v. Frazier*, 248 K. 963, 970, 811 P.2d 1240 (1991).

38-1635. Diversion. Each court may adopt a policy and establish guidelines for a diversion program by which a respondent who has not been previously adjudged to be a juvenile offender may avoid such an adjudication.

History: L. 1982, ch. 182, § 89; Jan. 1, 1983.

Law Review and Bar Journal References:

"Kansas Diversion: Defendant's Remedies and Prosecutorial Opportunities," Joseph Brian Cox, 20 W.L.J. 344 (1981).

* **38-1636.** Prosecution as an adult; authorization. (a) At any time after commencement of proceedings under this code against a respondent who was: (1) 14 or 15 years of age at the time of the offense or offenses alleged in the complaint, if any such offense is or offenses are a class A or B felony, and prior to entry of an adjudication or the beginning of an evidentiary hearing at which the court may enter adjudication as provided in K.S.A. 38-1655, and amendments thereto, or (2) 16 or more years of age at the time of the offense alleged in the complaint and prior to entry of an adjudication or the beginning of an evidentiary hearing at which the court may enter adjudication as provided in K.S.A. 38-1655, and amendments thereto, the county or district attorney may file a motion requesting that the court authorize prosecution of the respondent as an adult under the applicable criminal statute.

(b) The motion may also contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.

(c) Upon receiving a motion to authorize prosecution as an adult, the court shall set a time and place for hearing on the motion. The court shall give notice of the hearing to the respondent, each parent of the respondent, if service is possible, and the attorney representing the respondent. The motion shall be heard and determined prior to any further proceedings on the complaint.

(d) If the respondent fails to appear for hearing on a motion to authorize prosecution as an adult after having been properly served with notice of the hearing, the court may hear and determine the motion in the absence of the respondent. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the respondent after having given notice of the hearing once a week for two consecutive weeks in a newspaper authorized to publish legal notices in the county where the hearing will be held.

(e) In determining whether or not prosecution as an adult should be authorized, the court shall consider each of the following factors: (1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult; (2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner; (3) whether the offense was against a

person or against property, greater weight being given to offenses against persons, especially if personal injury resulted; (4) the number of alleged offenses unadjudicated and pending against the respondent; (5) the previous history of the respondent, including whether the respondent had been adjudicated a delinquent or miscreant under the Kansas juvenile code or a juvenile offender under this code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence; (6) the sophistication or maturity of the respondent as determined by consideration of the respondent's home, environment, emotional attitude, pattern of living or desire to be treated as an adult; (7) whether there are facilities or programs available to the court which are likely to rehabilitate the respondent prior to the expiration of the court's jurisdiction under this code; and (8) whether the interests of the respondent or of the community would be better served by criminal prosecution. The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection shall not in and of itself be determinative of the issue. Subject to the provisions of K.S.A. 38-1653, and amendments thereto, written reports and other materials relating to the respondent's mental, physical, educational and social history may be considered by the court.

(f) The court may authorize prosecution as an adult upon completion of the hearing if the court finds that the respondent was: (1) 14 or 15 years of age at the time of the alleged commission of the offense, if the offense is a class A or B felony, and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged, or (2) 16 or more years of age at the time of the alleged commission of the offense and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged. In that case, the court shall direct the respondent be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(g) If the respondent is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the respondent, the court may direct that there is no necessity for further preliminary examination on the charges

as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the respondent bound over to the district judge having jurisdiction to try the case.

(h) If the respondent is convicted, the authorization for prosecution as an adult may attach and apply to any future acts by the respondent which are or would be cognizable under this code if the order of the court so provides.

(i) If the respondent is prosecuted as an adult under subsection (f)(1) and convicted of a lesser included offense, the respondent shall be a juvenile offender and receive an authorized disposition pursuant to K.S.A. 38-1663, and amendments thereto.

History: L. 1982, ch. 182, § 90; L. 1986, ch. 115, § 82; L. 1990, ch. 149, § 3; L. 1991, ch. 89, § 2; July 1.

Revisor's Note:

This section was amended by L. 1992, ch. 239, § 298, effective July 1, 1993.

Research and Practice Aids:

Infants — 68 et seq.

C.J.S. Infants §§ 42 to 49, 198 to 208.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394, 399, 400, 401 (1988).

CASE ANNOTATIONS

6. Eight factors in determining whether juvenile should be prosecuted as adult stated and applied. *State v. Meyers*, 245 K. 471, 473, 781 P.2d 700 (1989).

7. Eight factors for consideration to try as an adult; prosecutorial delay in reporting juror misconduct examined. *State v. Cady*, 248 K. 743, 744, 811 P.2d 1143 (1991).

8. Factors in (e) may be given different weight and evidence of all factors not required. *State v. Irvin*, 16 K.A.2d 214, 215, 217, 219, 821 P.2d 1019 (1991).

* **38-1637. Proceedings to determine competency.** (a) For the purpose of this section, a respondent is incompetent for hearing when charged as a juvenile offender and, because of mental illness or defect, is unable:

(1) To understand the nature and purpose of the proceedings; or

(2) to make or assist in making a defense.

(b) Whenever the words "competent," "competency," "incompetent" and "incompetency" are used without qualification in this code, they shall refer to the respondent's competency or incompetency, as described in subsection (a).

(c) (1) At any time after the respondent has been charged with an act which, if the respondent is found to have committed, would result in adjudication as a juvenile offender and before adjudication, the respondent, the res-

pondent's attorney or the county or district attorney may request a determination of the respondent's competency for hearing. If, upon the request of either party or upon one's own knowledge and observation, the judge before whom the case is pending finds that there is reason to believe that the respondent is incompetent for hearing, the proceedings shall be suspended and a hearing conducted to determine the competency of the respondent.

(2) All proceedings under this section shall be in the court in which the case is pending. The court shall determine the issue of competency and may order a psychiatric or psychological examination of the respondent. To facilitate the examination, the court may: (A) Appoint two qualified licensed physicians or licensed psychologists, or one of each to examine the respondent or (B) designate a private psychiatric or psychological facility or public mental health center to conduct the examination and report to the court. If either physician or psychologist, the private psychiatric facility or the public mental health center determines that further examination is necessary, the court may commit the respondent for not more than 60 days to any appropriate state, county or private institution for examination and appropriate report to the court. For good cause shown, the commitment may be extended for another 60 days. No statement made by the respondent in the course of any examination provided for by this section, whether the examination is with or without the consent of the respondent, shall be admitted in evidence against the respondent in any hearing.

(3) If the respondent is found to be competent, the proceedings which have been suspended shall be resumed.

(4) If the respondent is found to be incompetent, the respondent shall be committed for treatment and shall remain subject to the further order of the court.

(5) The respondent shall be present personally at all proceedings under this section.

(6) A respondent who is found to be incompetent shall be committed for treatment to any appropriate state, county or private institution during the continuance of that condition. One or both parents of the respondent may be ordered to pay child support. Upon application of the respondent and in the discretion of the court, the respondent may be released to any appropriate private institution upon terms and conditions prescribed by the court.

(7) When reasonable grounds exist to believe that a respondent who has been adjudged incompetent is now competent, the court in which the case is pending shall conduct a hearing to determine the respondent's present mental condition. Reasonable notice of the hearings shall be given to the county or district attorney, the respondent and the respondent's attorney of record, if any. If the court, following the hearing, finds the respondent to be competent, the proceedings pending against the respondent shall be resumed.

History: L. 1982, ch. 182, § 91; L. 1983, ch. 140, § 39; L. 1986, ch. 299, § 5; L. 1992, ch. 312, § 20; July 1.

Research and Practice Aids:

Infants ⇐ 227.

C.J.S.-Infants. §§ 42, 53, 54, 57, 69 to 85.

* **33-1632. Same; commitment of incompetent.** (a) A respondent who is found to be incompetent for hearing shall be committed for evaluation and treatment to any appropriate state, county or private institution for a period of not to exceed 90 days. Within 90 days of the respondent's commitment to the institution, the chief medical officer of the institution shall certify to the court whether the respondent has a substantial probability of attaining competency for hearing in the foreseeable future. If the probability does exist, the court shall order the respondent to remain in an appropriate state, county or private institution until the respondent attains competency for hearing or for a period of six months from the date of the original commitment, whichever occurs first. If the probability does not exist, the court shall order the secretary to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated.

(b) If a respondent who was found to have a substantial probability of attaining competency for hearing, as provided in subsection (a), has not attained competency for hearing within six months from the date of the original commitment, the court shall order the secretary to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated.

(c) When reasonable grounds exist to believe that a respondent who has been adjudged incompetent for hearing is com-

petent, the court in which the case is pending shall conduct a hearing in accordance with K.S.A. 38-1637 to determine the respondent's present mental condition. Reasonable notice of the hearing shall be given to the prosecuting attorney, the respondent and the respondent's attorney of record, if any. If the court, following the hearing, finds the respondent to be competent, the proceedings pending against the respondent shall be resumed.

History: L. 1982, ch. 182, § 92; Jan. 1, 1983.

Research and Practice Aids:

Infants — 227.

C.J.S. Infants §§ 42, 53, 54, 57, 69 to 85.

- * **38-1638.** Same; procedure when respondent not civilly committed. (a) Whenever involuntary commitment proceedings have been commenced by the secretary as required by K.S.A. 38-1638 and the respondent is not committed to a treatment facility as a patient, the respondent shall remain in the institution where committed pursuant to K.S.A. 38-1638. The secretary shall promptly notify the court in which the proceedings are pending of the result of the involuntary commitment proceedings. The court shall then proceed pursuant to subsection (c).

(b) Whenever involuntary commitment proceedings have been commenced by the secretary as required by K.S.A. 38-1638 and the respondent is committed to a treatment facility as a patient but thereafter is to be discharged pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, the respondent shall remain in the institution where committed pursuant to K.S.A. 38-1638. The head of the treatment facility shall promptly notify the court in which the proceedings are pending that the respondent is to be discharged. The court shall then proceed pursuant to subsection (c).

(c) Within five days after receiving notice pursuant to subsection (a) or (b), the court shall order the respondent to be discharged from commitment and shall dismiss without prejudice the charges against the respondent. The period of limitation for the prosecution for the crime charged shall not continue to run until the respondent has been determined to have attained competency.

History: L. 1982, ch. 182, § 93; Jan. 1, 1983.

Research and Practice Aids:

Infants — 227.

C.J.S. Infants §§ 42, 53, 54, 57, 69 to 85.

* **38-1640.** Criteria for detention of juvenile in detention facility. (a) The following are criteria for determining whether to place a juvenile in a juvenile detention facility pursuant to subsection (c) of K.S.A. 38-1624 or subsection (e) of K.S.A. 38-1632, and amendments thereto:

(1) There is oral or written verification that the juvenile is a fugitive sought for an offense in another jurisdiction or that the juvenile is currently an escapee from a juvenile detention facility.

(2) The juvenile is alleged to have committed an offense which if committed by an adult would constitute a class A, B or C felony or a crime described in article 35 of chapter 21 of the Kansas Statutes Annotated.

(3) The juvenile is awaiting court action on an offense which if committed by an adult would constitute a felony.

(4) The juvenile has a record of failure to appear in court or there is probable cause to believe that the juvenile will flee the jurisdiction of the court.

(5) The juvenile has a history of violent behavior toward others.

(6) The juvenile exhibited seriously assaultive or destructive behavior at the time of being taken into custody and continued such behavior after taken into custody.

(7) The juvenile exhibited self-destructive behavior at the time of being taken into custody and continued such behavior after taken into custody.

(8) The juvenile has a record of adjudication or conviction of one or more offenses which if committed by an adult would constitute felonies.

(9) The juvenile is a juvenile offender who has been expelled from placement in a nonsecure facility as a result of the current alleged offense.

(b) This section shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1986, ch. 162, § 2; July 1.

Research and Practice Aids:

Infants — 192.

C.J.S. Infants §§ 42, 53, 54, 55.

38-1641 to 38-1650. Reserved.

ADJUDICATORY PROCEDURE

Law Review and Bar Journal References:

"Juvenile Justice: Procedural Safeguards for Delinquents at the Adjudicatory Stage—Not for Adults Only," Joanna V. Billingsley, 21 W.L.J. 175, 311, 312 (1982).

"Juvenile Law: Juvenile Involuntarily Absent from a Waiver Hearing is Not Denied Due Process (State v. Muhammad, 237 Kan. 850, 703 P.2d 835 (1985))." Daniel J. Gonniger, 25 W.L.J. 598, 606 (1986).

- * **32-1651. Time of hearing.** All cases filed under this code shall be heard without unnecessary delay. Continuances may be granted to either party for good cause shown.

History: L. 1982, ch. 182, § 94; Jan. 1, 1983.

Research and Practice Aids:

Infants ⇐ 204.

C.J.S. Infants §§ 51, 52, 62 to 67.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 495, 789 P.2d 1153 (1990).

- * **32-1652. Confidentiality of proceedings.** (a) If the respondent was 16 or more years of age at the time of the alleged offense, the hearing shall be open to the public.

(b) If the respondent was under 16 years of age at the time of the alleged offense, the court may exclude all persons except the respondent, the respondent's parents, attorneys for interested parties, officers of the court and the witness testifying. Upon agreement of all interested parties, the court shall allow other persons to attend the hearing unless the court finds the presence of the persons would be disruptive to the proceedings.

History: L. 1982, ch. 182, § 95; Jan. 1, 1983.

Research and Practice Aids:

Infants ⇐ 133.

C.J.S. Infants §§ 57, 69 to 85.

Attorney General's Opinions:

Notification of public hearing to crime victim; juvenile offenders aged 16 or over. 90-54.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 498, 789 P.2d 1153 (1990).

- * **32-1653. Rules of evidence.** In all adjudicatory hearings the rules of evidence of the code of civil procedure shall apply. The judge presiding at the hearing shall not consider, read or rely upon any report not properly admitted according to the rules of evidence.

History: L. 1982, ch. 182, § 96; Jan. 1, 1983.

Research and Practice Aids:

Infants ⇐ 171.

C.J.S. Infants §§ 58 to 61.

Law Review and Bar Journal References:

"The New Kansas Law Regarding Admissibility of Child-Victim Hearsay Statements," G. Joseph Pierron, 52 J.K.B.A. 88, 92 (1983).

CASE ANNOTATIONS

1. Cited; provisions of 60-460(dd) (statements by children) inapplicable to juvenile offender proceedings. *In re Mary P.*, 237 K. 456, 457, 701 P.2d 681 (1985).

2. Eight factors in determining whether juvenile should be prosecuted as adult stated and applied. *State v. Meyers*, 245 K. 471, 473, 781 P.2d 700 (1989).

- * **32-1654. Degree of proof.** In all proceedings on complaints alleging a respondent to be a juvenile offender the state must prove beyond a reasonable doubt that the respondent committed the act or acts charged in the complaint or an included offense as defined in K.S.A. 21-3107(2) and amendments thereto.

History: L. 1982, ch. 182, § 97; Jan. 1, 1983.

Research and Practice Aids:

Infants ⇐ 175.

C.J.S. Infants §§ 58 to 61.

CASE ANNOTATIONS

1. State sustained burden under juvenile code of establishing utterance of terroristic threat. *Findlay v. State*, 235 K. 462, 466, 681 P.2d 20 (1984).

- * **32-1655. Adjudication.** If the court finds that the evidence fails to prove an offense charged or an included offense as defined in K.S.A. 21-3107(2) and amendments thereto, the court shall enter an order dismissing the charge.

If the court finds that the respondent committed the offense charged or an included offense as defined in K.S.A. 21-3107(2) and amendments thereto, the court shall adjudicate the respondent to be a juvenile offender and may enter orders of disposition authorized by this code.

If the court finds that the respondent committed the acts constituting the offense charged or an included offense as defined in K.S.A. 21-3107(2) and amendments thereto but is not responsible because of insanity, the respondent shall not be adjudicated as a juvenile offender and shall be committed to the custody of the secretary and placed in a state hospital. The respondent's continued commitment shall be subject to annual review in the manner provided by K.S.A. 22-3428a and amendments thereto for review of commitment of a defendant found not guilty by reason of insanity, and the respondent may be discharged or conditionally released pursuant to that section. The

respondent also may be discharged or conditionally released in the same manner and subject to the same procedures as provided by K.S.A. 22-3428 and amendments thereto for discharge of or granting conditional release to a defendant found not guilty by reason of insanity. If the respondent violates any conditions of an order of conditional release, the respondent shall be subject to contempt proceedings and return to custody as provided by K.S.A. 22-3428b and amendments thereto.

History: L. 1982, ch. 182, § 98; Jan. 1, 1983.

Cross References to Related Sections:
Report of certain adjudications, see 8-253.

CASE ANNOTATIONS

1. Cited; deliberations and findings necessary to establish venue of dispositional hearing outside juvenile resident county (38-1605) examined. In re A.T.K., 11 KA2d 174, 176, 717 P.2d 328 (1986).

- * **38-1656.** Jury trials in certain cases. In all cases involving offenses committed by a juvenile which, if done by an adult, would make the person liable to be arrested and prosecuted for the commission of a felony, the judge may order that the juvenile be afforded a trial by jury. Upon an adjudication, the court shall proceed with disposition.

History: L. 1982, ch. 182, § 99; Jan. 1, 1983.

Research and Practice Aids:
Infants ⇐ 209.
C.J.S. Infants §§ 51, 52, 62 to 67.

CASE ANNOTATIONS

1. Jury trial in juvenile offender proceeding at option of court, with no rights of state or respondent nor appellate review. Findlay v. State, 235 K. 462, 466, 681 P.2d 20 (1984).

- * **38-1657.** Recorded statement of child victim admissible in certain cases; limitations. (a) In any proceeding pursuant to the Kansas juvenile offenders code in which a child less than 13 years of age is alleged to be a victim of the offense, a recording of an oral statement of the child, made before the proceeding began, is admissible in evidence if:
- (1) The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;
 - (2) no attorney for any party is present when the statement is made;
 - (3) the recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(4) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

(5) the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;

(6) every voice on the recording is identified;

(7) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party;

(8) each party to the proceeding is afforded an opportunity to view the recording before it is offered into evidence, and a copy of a written transcript is provided to the parties; and

(9) the child is available to testify.

(b) If a recording is admitted in evidence under this section, any party to the proceeding may call the child to testify and be cross-examined, either in the courtroom or as provided by K.S.A. 38-1658.

(c) This section shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1986, ch. 119, § 5; July 1.

Research and Practice Aids:
Infants ⇐ 174.
C.J.S. Infants §§ 58 to 61.

- * **38-1658.** Videotape of testimony of child victim admissible in certain cases; limitations; objections; restrictions. (a) On motion of the attorney for any party to a proceeding pursuant to the Kansas juvenile offenders code in which a child less than 13 years of age is alleged to be a victim of the offense, the court may order that the testimony of the child be taken:

(1) In a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding; or

(2) outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding if: (A) The recording is both visual and aural and is recorded on film or videotape or by other electronic means; (B) the recording equipment is capable of making an accurate recording, the operator of the

equipment is competent and the recording is accurate and has not been altered; (C) every voice on the recording is identified; and (D) each party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom, and a copy of a written transcript is provided to the parties.

(b) At the taking of testimony under this section:

(1) Only the attorneys for the respondent, the state and the child, any person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the recording or closed-circuit equipment may be present in the room with the child during the child's testimony;

(2) only the attorneys may question the child;

(3) the persons operating the recording or closed-circuit equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during the child's testimony but does not permit the child to see or hear them; and

(4) the court shall permit the respondent to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the respondent.

(c) If the testimony of a child is taken as provided by this section, the child shall not be compelled to testify in court during the proceeding.

(d) (1) Any objection by any party to the proceeding to a recording under subsection (a)(2) is inadmissible must be made by written motion filed with the court at least seven days before the commencement of the proceeding. An objection under this subsection shall specify the portion of the recording which is objectionable and the reasons for the objection. Failure to file an objection within the time provided by this subsection shall constitute waiver of the right to object to the admissibility of the recording unless the court, in its discretion, determines otherwise.

(2) The provisions of this subsection (d) shall not apply to any objection to admissibility for the reason that the recording has been materially altered.

(e) This section shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1986, ch. 119, § 6; July 1.

Research and Practice Aids:

Infants ⇐ 174.

C.J.S. Infants §§ 58 to 61.

33-1659, 33-1660. Reserved.

DISPOSITIONAL PROCEDURE

* **33-1661.** Predispositional investigation, report and hearing. (a) Prior to a dispositional hearing, the court shall request an investigation and report by a court services officer unless the court finds that adequate and current information is available from a previous investigation, report or other sources. Upon request of the prosecuting attorney or the attorney for the respondent, the court shall make available to the attorney the report of the investigation and shall allow the attorney a reasonable time to review the report before ordering the disposition of the respondent.

(b) The court may direct that the investigation include the circumstances of the offense; the attitude of the complainant, victim or the victim's family; and the record of juvenile offenses; the social history and the present condition of the respondent. Except where specifically prohibited by law, all local governmental public and private educational institutions and state agencies shall furnish to the officer conducting the predispositional investigation the records the officer requests. If ordered by the court, the predispositional investigation shall include a physical examination and mental examination of the respondent if sufficient reports are not already available to the investigating officer. Predispositional investigations shall contain other information prescribed by the court.

(c) At any time after the respondent has been adjudicated to be a juvenile offender and prior to disposition, the judge, at the request of an interested party, shall hear additional evidence as to proposals for reasonable and appropriate disposition of the case.

History: L. 1982, ch. 182, § 100; L. 1990, ch. 147, § 8; July 1.

Research and Practice Aids:

Infants ⇐ 223.

C.J.S. Infants §§ 57, 69 to 85.

CASE ANNOTATIONS

1. Language "the hearing" open to public means only adjudicatory hearings for those over 15. *Stauffer Communications, Inc. v. Mitchell*, 246 K. 492, 495, 789 P.2d 1153 (1990).

* **33-1662.** Evaluation of development or needs. (a) *Psychological or emotional.* Following an adjudication under this code the court may order an evaluation and written report of the psychological or emotional development or needs of the juvenile offender. The court may refer the juvenile offender to a state institution for the evaluation if the secretary advises the court that the facility is a suitable place to care for, treat or evaluate the juvenile offender and

that space is available. The expenses of transportation to and from the state facility may be paid as a part of the expenses of the proceedings. The juvenile offender may be referred to a mental health center or a qualified professional for the evaluation, and the expenses of the evaluation may be considered as expenses of the proceedings and assessed as provided in this code. If the court orders an evaluation as provided in this section, a parent of the juvenile offender shall have the right to obtain an independent evaluation at the expense of the parent.

(b) *Medical.* Following an adjudication under this code, the court may order an examination and report of the medical condition and needs of the juvenile offender who is the subject of the proceedings. The court may also order a report from any physician who has been attending the juvenile offender stating the diagnosis, condition and treatment afforded the juvenile offender.

(c) *Educational.* The court may order the chief administrative officer of the school which the juvenile offender attends or attended to provide to the court information that is readily available which the school officials feel would properly indicate the educational needs of the juvenile offender. The order may direct that the school conduct an educational needs assessment of the juvenile offender and send a report thereof to the court. The educational needs assessment may include a meeting involving any of the following: (1) The juvenile offender's parents, (2) the juvenile offender's teacher or teachers, (3) the school psychologist, (4) a school special services representative, (5) a representative of the secretary, (6) the juvenile offender's C.A.S.A., (7) the juvenile offender's foster parents or legal guardian and (8) other persons that the chief administrative officer of the school, or the officer's designee, deems appropriate.

History: L. 1982, ch. 182, § 101; L. 1990, ch. 147, § 9; L. 1991, ch. 113, § 2; July 1.

* **38-1663.** Authorized dispositions. [See Revisor's Note] (a) When a respondent has been adjudged to be a juvenile offender, the judge may select from the following alternatives:

(1) Place the juvenile offender on probation for a fixed period, subject to the terms and conditions the court deems appropriate, including a requirement of making restitution as required by subsection (d).

(2) Place the juvenile offender in the custody of a parent or other suitable person, subject to the terms and conditions the court orders, including a requirement of making restitution as required by subsection (d).

(3) Place the juvenile offender in the custody of a youth residential facility, subject to the terms and conditions the court orders.

(4) Place the juvenile offender in the custody of the secretary.

(5) Impose any appropriate combination of subsections (a)(1) and (2), subsection (a)(3) or subsection (a)(4) and make other orders directed to the juvenile offender as the court deems appropriate.

(6) Commit the juvenile offender, if 13 years of age or older, to a state youth center if the juvenile offender

(A) Has had a previous adjudication as a juvenile offender under this code or as a delinquent or miscreant under the Kansas juvenile code; or

(B) has been adjudicated a juvenile offender as a result of having committed an act which, if done by a person 18 years of age or over, would constitute a class A, B or C felony as defined by the Kansas criminal code.

(7) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the juvenile offender and the parents of the juvenile offender to:

(A) Attend counseling sessions as the court directs; or

(B) participate in mediation as the court directs. Participants in such mediation may include, but shall not be limited to, the victim, the juvenile offender and the juvenile offender's parents. Mediation shall not be mandatory for the victim.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the

order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606 and amendments thereto.

(3) The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than that the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than that the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative.

(c) (1) In addition to any other order authorized by this section, if a respondent has been adjudged to be a juvenile offender by reason of an act involving possession, use or abuse of any alcoholic beverage or controlled substance, or both, the court may require the juvenile offender to surrender to the court any driver's license in such offender's possession. The court shall transmit any such license, together with a copy of the adjudication order, to the division of vehicles of the department of revenue. Upon receipt thereof, the division shall revoke the driving privileges of the juvenile offender.

(2) No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked under subsection (c)(1) until such privileges have been restored. The juvenile offender may petition the court to have such privileges restored: (A) At any time if the offender is enrolled and actively participating in an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services, upon the first offense for which such privileges have been revoked pursuant to subsection (c)(1), but restoration of such privileges shall be conditioned on the offender's continued active participation in such program; (B) at any time after 90 days have elapsed since the offender's driving privileges have been revoked, upon the first offense for which such privileges have been revoked; or (C) at any time after one year has elapsed since the offender's driving privileges have been revoked, upon the second or a subsequent offense for which such privileges have been revoked.

Upon such petition and for good cause shown, the court, in its discretion, may restore the offender's driving privileges, subject to the completion of a driver's license examination as required for the issuance of an original driver's license.

(d) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(e) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be directly related to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments.

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(f) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudged to be a juvenile offender by reason of a violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.* and amendments thereto) or K.S.A. 41-719, 41-727, 41-

804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and amendments thereto, the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation, except that such evaluation may be waived by the court if the court finds that the juvenile offender has successfully completed an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, subsequent to the offender's arrest on this offense. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary or the department of social and rehabilitation services.

(g) The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program pursuant to subsection (a)(7) shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall further prepare a sliding financial scale based on the ability of the parents to pay for such a program.

(h) In addition to any other order authorized by this section, if child support has been requested and the parent or parents have a duty to support the respondent the court may, and when custody is placed with the secretary shall, order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the respondent. If the parent is not presently ordered to pay support for the respondent and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 1992 Supp. 38-16,117 and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 *et seq.* and amendments thereto for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A. 1992 Supp. 38-16,119 and amend-

ments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 95, § 10; L. 1990, ch. 48, § 1; L. 1992, ch. 312, § 21; July 1.

Revisor's Note:

Section was amended twice in 1989 session, see also 38-1663a.

Section was amended twice in 1990 session, see also 38-1663b.

This section was also amended by L. 1992, ch. 239, § 280, effective July 1, 1993.

Research and Practice Aids:

Infants $\Leftarrow$ 223.

C.J.S. Infants §§ 57, 69 to 85.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tucker, 27 W.L.J. 394, 402 (1988).

CASE ANNOTATIONS

3. Exclusionary clause in insurance contract for intentional acts of mentally ill insured examined; "intentional" construed. *Shelter Mut. Ins. Co. v. Williams*, 248 K. 17, 19, 804 P.2d 1374 (1991).

4. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. *State v. Frazier*, 248 K. 963, 970, 811 P.2d 1240 (1991).

38-1663a. Dispositional alternatives; counseling sessions, juvenile offender and parents; imposition of fine; house arrest program, cost paid by parents or guardians.

History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 92, § 29; Repealed, L. 1990, ch. 151, § 2; July 1.

38-1663b.

History: L. 1982, ch. 182, § 102; L. 1987, ch. 154, § 1; L. 1989, ch. 95, § 10; L. 1990, ch. 151, § 1; Repealed, L. 1992, ch. 312, § 41; July 1.

* **38-1664. Juvenile offenders placed in custody of secretary; notification of court; reports by secretary and foster parents.** (a) When a juvenile offender has been placed in the custody of the secretary, the secretary shall notify the court in writing of the initial placement of the juvenile offender as soon as the placement has been accomplished. The court shall have no power to direct a specific placement by the secretary, but may make recommendations to the secretary. The secretary may place the juvenile offender in an institution operated by the secretary, a youth residential facility or a community mental health center. If the court has recommended an out-

of-home placement, the secretary may not return the juvenile offender to the home from which removed without first notifying the court of the plan.

(b) During the time a juvenile offender remains in the custody of the secretary, the secretary shall report to the court at least each six months as to the current living arrangement and social and mental development of the juvenile offender. If the juvenile offender is placed in foster care, the foster parent or parents shall submit to the court, at least every six months, a report in regard to the juvenile offender's adjustment, progress and condition. The department of social and rehabilitation services shall notify the foster parent or parents of the foster parents' or parent's duty to submit such report, on a form provided by the department of social and rehabilitation services, at least two weeks prior to the date when the report is due, and the name of the judge and the address of the court to which the report is to be submitted. Such report shall be confidential and shall only be reviewed by the court and the child's attorney.

History: L. 1982, ch. 182, § 103; L. 1989, ch. 122, § 2; L. 1990, ch. 150, § 8; Jan. 1, 1993.

Cross References to Related Sections:
Form of report, 38-1569.

* **38-1665.** Modification of disposition. (a) When a juvenile offender has been placed in a youth residential facility or in the custody of a person other than a parent, the court may cause the juvenile offender to be brought before it, together with the person or persons in whose custody the juvenile offender may be. If it appears that a continuance of the custody or placement is not in the best interests of the juvenile offender, the court may rescind and set aside the order giving custody and make a further dispositional order for the custody of the juvenile offender as is appropriate, except that a child support order which has been registered under K.S.A. 1992 Supp. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 1992 Supp. 38-16,119 and amendments thereto.

(b) At any time after the entry of an authorized disposition awarding custody of a juvenile offender to a person other than a parent, the court on its own motion, or the secretary, the attorney for the juvenile offender or any party or parent may file a motion with the court for a rehearing on the issue of custody. Upon receipt of the motion, the court shall fix a time and place for hearing and shall notify each party of the time and place. After the

hearing, the court may enter any authorized disposition, except that a child support order which has been registered under K.S.A. 1992 Supp. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 1992 Supp. 38-16,119 and amendments thereto. If the court determines that it is in the best interests of the juvenile offender to be returned to the custody of the parent or parents, the court shall so order.

(c) Any time within 60 days after a court has committed a juvenile offender to a state youth center the court may modify the dispositional order and enter any other authorized disposition, except that a child support order which has been registered under K.S.A. 1992 Supp. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 1992 Supp. 38-16,119 and amendments thereto.

History: L. 1982, ch. 182, § 104; L. 1992, ch. 312, § 22; July 1.

Research and Practice Aids:

Infants ⇐ 230.

C.J.S. Infants §§ 57, 69 to 85.

* **38-1666.** Violation of condition of probation or placement. If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement that would not constitute grounds for filing a new complaint, the county or district attorney, the victim of the offense committed by the offender, the assigned court services officer or the person in whom care, custody and control of the juvenile offender has been placed may file a report with the court describing the alleged violation and requesting a hearing thereon. The court shall then proceed in the same manner and under the same procedure as for a hearing on a complaint. If the court finds at the hearing that the juvenile offender violated a condition of probation or placement, the court may extend or modify the terms of probation or placement or enter another authorized disposition, except that a child support order which has been registered under K.S.A. 1992 Supp. 38-16,119 and amendments thereto may only be modified pursuant to K.S.A. 1992 Supp. 38-16,119 and amendments thereto.

History: L. 1982, ch. 182, § 105; L. 1992, ch. 312, § 23; July 1.

Research and Practice Aids:

Infants ⇐ 225.

C.J.S. Infants §§ 57, 69 to 85.

33-1667. Termination of jurisdiction. In every case under this code the judge shall designate in the file of the case the date of the termination of jurisdiction by the court.

History: L. 1982, ch. 182, § 106; Jan. 1, 1983.

33-1668 to 33-1670. Reserved.

* **33-1671. Commitment to state youth center; duties at time of commitment; transfers.** (a) *Actions by the court.* When a juvenile offender has been committed to a state youth center, the clerk of the court shall forthwith notify the secretary of the commitment and provide the secretary with a certified copy of the complaint, the journal entry of the adjudicatory hearing and the dispositional order. The court shall also forward those items from the social file which could relate to a rehabilitative program. If the court wishes to recommend placement of the juvenile offender in a specific state youth center, the recommendation shall be included in the dispositional order. After the court has received notice of the state youth center designated as provided in subsection (b), it shall be the duty of the court or the sheriff of the county to deliver the juvenile offender to the facility at the time designated by the secretary.

(b) *Actions by the secretary.* (1) After receiving notice of commitment as provided in subsection (a), the secretary shall give the committing court notice designating the state youth center to which the juvenile offender is to be admitted and the date of the admission.

(2) Except as provided by K.S.A. 1992 Supp. 38-1691, the secretary may make any temporary out-of-home placement the secretary deems appropriate pending placement of the juvenile offender in a state youth center, and the secretary shall notify the court of that placement.

(c) *Transfers.* During the time a juvenile offender remains committed to a state youth center, the secretary may transfer the juvenile offender from one state youth center to another.

History: L. 1982, ch. 182, § 107; L. 1990, ch. 150, § 9; Jan. 1, 1993.

Research and Practice Aids:

Infants — 223.

C.J.S. Infants §§ 57, 69 to 85.

33-1672. Same; procedure when new offense alleged. (a) Except as provided in subsection (b), if a complaint is filed alleging a new offense by a juvenile offender who is under commitment to or placement in a state youth center, the juvenile offender shall be forthwith returned to the state youth center or the custody of the secretary to be detained in a place the secretary directs during the pendency. The juvenile offender may not be either released or detained in any other facility or place. The juvenile offender shall be allowed to confer with the juvenile offender's attorney and the secretary shall release the juvenile offender to the custody of the court at the times required for adjudication or disposition. If the juvenile offender is again adjudged to be a juvenile offender, the juvenile offender shall again be committed to a state youth center.

(b) The provisions of subsection (a) shall not apply if a motion is filed requesting authorization to prosecute the juvenile offender as an adult. The juvenile offender may be detained in a juvenile detention facility until the hearing on the motion. If the court hearing the motion fails to authorize prosecution of the juvenile offender as an adult, the juvenile offender shall then be returned to the state youth center for further proceedings as provided in subsection (a).

History: L. 1982, ch. 182, § 108; Jan. 1, 1983.

* **33-1673. Same; conditional release; procedure; supervision; notification of county or district attorney.** (a) When a juvenile offender has satisfactorily completed the program at the state youth center to which the juvenile offender was committed or placed, the person in charge of the state youth center shall have authority to release the juvenile offender under appropriate conditions and for a specified period of time.

(b) At least 15 days prior to releasing a juvenile offender as provided in subsection (a), the person in charge of the state youth center shall notify the committing court of the date and conditions upon which it is proposed the juvenile offender is to be released.

(c) Upon receipt of the notice required by subsection (b), the court shall review the proposed conditions of release and may recommend modifications or additions to the conditions.

(d) If, during the conditional release, the juvenile offender is not returning to the county from which committed, the person in charge of the state youth center shall also give notice to the court of the county in which the juvenile offender is to be residing.

(e) To assure compliance with conditions of release from a state youth center, the secretary shall have the authority to prescribe the manner in which compliance with the conditions shall be supervised. When requested by the secretary, the appropriate court may assist in supervising compliance with the conditions of release during the term of the conditional release.

(f) The department of social and rehabilitation services shall notify at least 45 days prior to the discharge of the juvenile offender the county or district attorney of the county where the offender was adjudicated a juvenile offender of the release of such juvenile offender, if such juvenile offender's offense would have constituted a class A, B or C felony if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the release of the juvenile offender to any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court. Failure to notify pursuant to this section shall not be a reason to postpone a release. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

History: L. 1982, ch. 182, § 109; L. 1983, ch. 140, § 40; L. 1990, ch. 149, § 4; July 1.

Research and Practice Aids:

Infants — 281.

C.J.S. Infants §§ 57, 69 to 85, 198, 199, 206 to 214.

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

33-1674. Same; conditional release; failure to obey. If it is alleged that a juvenile offender who has been conditionally released from a state youth center has failed to obey the specified conditions of release, any social worker or court services officer assigned to supervise compliance with the conditions of release or the county or district attorney may file a motion with the committing court or the court of the county

in which the juvenile offender is residing. The motion shall describe the alleged violation and request a hearing thereon. The court shall then proceed in the same manner and under the same procedure as provided for a hearing on a complaint filed under this code. If the court finds that a condition of release has been violated, the court may impose additional conditions of release that the court considers appropriate, extend the term of the conditional release or order that the juvenile offender be returned to the state youth center until discharged by the superintendent in charge thereof.

History: L. 1982, ch. 182, § 110; Jan. 1, 1983.

* **33-1675. Same; discharge from commitment;** notification to county or district attorney. When a juvenile offender has reached the age of 21 years or has successfully completed the program at a state youth center together with any conditional release following the program, the superintendent in charge of the state youth center shall discharge the juvenile offender from any further obligation under the commitment. The discharge shall operate as a full and complete release from any obligations imposed on the juvenile offender arising from the offense for which the juvenile offender was committed: The department of social and rehabilitation services shall notify at least 45 days prior to the discharge of the juvenile offender the county or district attorney of the county where the offender was adjudicated a juvenile offender of the discharge of such juvenile offender, if such juvenile offender's offense would have constituted a class A, B or C felony if committed by an adult. The county or district attorney shall give written notice at least 30 days prior to the discharge of the juvenile offender to any victim of the juvenile offender's crime who is alive and whose address is known to the court or, if the victim is deceased, to the victim's family if the family's address is known to the court. Failure to notify pursuant to this section shall not be a reason to postpone a discharge. Nothing in this section shall create a cause of action against the state or county or an employee of the state or county acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

History: L. 1982, ch. 182, § 111; L. 1990, ch. 149, § 5; July 1.

Attorney General's Opinions:

Discharge from commitment to youth center; notification to court. 90-39.

* **38-1676.** Juvenile offender; release; notification of county or district attorney; hearing. (a) If a juvenile offender has committed an act which, if committed by a person 18 years of age or over, would constitute a class A or B felony, and such juvenile offender is to be released, 30 days before release, the secretary of social and rehabilitation services shall notify the county attorney or district attorney and the court of such pending release. The county attorney, district attorney or the court on its own motion may file a motion with the court for a hearing to determine if the juvenile offender should be retained in the custody of the secretary, pursuant to K.S.A. 38-1675, and amendments thereto. The court shall fix a time and place for hearing and shall notify each party of the time and place.

(b) Following the hearing if the court authorizes a dispositional order for the secretary to retain custody, the juvenile offender shall not be held in a state youth center for longer than the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which the juvenile offender has been adjudicated to have committed.

(c) As used in this section, "maximum term of imprisonment" means the greatest maximum sentence authorized by K.S.A. 21-4501 and amendments thereto, applying any enhanced penalty which would be applicable under K.S.A. 21-4504 and amendments thereto and computing terms as consecutive when required by K.S.A. 21-4608 and amendments thereto.

(d) This section shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1990, ch. 149, § 12; July 1.

38-1677 to 38-1680. Reserved.

APPEALS

38-1681. Orders appealable by juvenile. (a) *Order authorizing prosecution as an adult.* (1) Unless the respondent has consented to the order, an appeal may be taken by a respondent from an order authorizing prosecution as an adult. The appeal shall be taken only after conviction and in the same manner as other criminal appeals, except that (A) where the criminal prosecution has resulted in a judgment of conviction upon a plea of guilty or *nolo contendere*, an appeal may be taken from the order authorizing prosecution as an adult notwithstanding the provisions of K.S.A. 22-

3602(a) and amendments thereto, and (B) if the criminal prosecution results in an acquittal, an appeal may nevertheless be taken from the order authorizing prosecution as an adult if the order provides that it attaches to future acts by the respondent as authorized by K.S.A. 38-1636(h).

(2) If on appeal the order authorizing prosecution as an adult is reversed but the finding of guilty is affirmed or the conviction was based on a plea of guilty or *nolo contendere*, the respondent shall be deemed adjudicated to be a juvenile offender. On remand the district court shall proceed with disposition.

(b) *Orders of adjudication and disposition.* An appeal may be taken by a respondent from an order of adjudication or disposition, or both. The appeal shall be taken after, but within 10 days of, the entry of the order of disposition.

(c) *Priority.* Appeals under this section shall have priority over other cases except those having statutory priority.

History: L. 1982, ch. 182, § 112; Jan. 1, 1983.

Cross References to Related Sections:

Report of disposition of certain appeals, see 8-253.

Research and Practice Aids:

Infants — 242.

C.J.S. Infants §§ 86 to 91.

Law Review and Bar Journal References:

"Juvenile Law: Juvenile Involuntarily Absent from a Waiver Hearing is Not Denied Due Process (*State v. Muhammad*, 237 Kan. 850, 703 P.2d 835 (1985))." Daniel J. Croninger, 25 W.L.J. 506, 602, 605 (1986).

CASE ANNOTATIONS

1. Cited in holding no appellate review of refusal of jury trial in juvenile offender proceeding. *Findlay v. State*, 235 K. 462, 465, 681 P.2d 20 (1984).

2. Noted; proceedings waiving juvenile jurisdiction under 38-1601 et seq. in juvenile's absence discussed. *State v. Muhammad*, 237 K. 850, 851, 703 P.2d 835 (1985).

3. No error in failing to advise on appeal rights when defendant no longer "juvenile offender." (38-1602(b)(3)) examined. *Reubke v. State*, 11 K.A.2d 353, 355, 720 P.2d 1141 (1986).

4. Notice of appeal timely filed after adjudication while none filed after disposition reaches merits of adjudication. *In re M.O.*, 13 K.A.2d 381, 382, 770 P.2d 856 (1989).

5. Cited where driving with suspended license (8-262) held not a "traffic offense" under 8-2117(d); minor over 14 years subject to code. *State v. Frazier*, 248 K. 963, 967, 811 P.2d 1240 (1991).

38-1682. Appeals by prosecution. An appeal may be taken by the prosecution from an order dismissing proceedings when jeopardy has not attached, from an order denying authorization to prosecute a re-

spondent as an adult or upon a question reserved by the prosecution. An appeal upon a question reserved by the prosecution shall be taken within 10 days after adjudication. Other appeals by the prosecution shall be taken within 10 days after the entry of the order appealed from.

History: L. 1982, ch. 182, § 113; L. 1983, ch. 140, § 41; July 1.

Law Review and Bar Journal References:

"Juvenile Law: Jurisdiction Under the Kansas Juvenile Code: Juvenile Adjudication or Adult Trial?" Carmen D. Tackler, 27 W.L.J., 394, 399 (1988).

CASE ANNOTATIONS

1. Cited in holding no appellate review of refusal of jury trial in juvenile offender proceeding. *Findlay v. State*, 235 K. 462, 463, 681 P.2d 20 (1984).

38-1623. Appeals; procedure. (a) An appeal from an order entered by a district magistrate judge shall be to a district judge. The appeal shall be heard *de novo* within 30 days from the date the notice of appeal was filed.

(b) Procedure on appeal shall be governed by article 21 of chapter 60 of the Kansas Statutes Annotated.

History: L. 1982, ch. 182, § 114; L. 1986, ch. 115, § 83; Jan. 12, 1987.

CASE ANNOTATIONS

1. Provision that appeal to district court from multi-state court to be heard *de novo* in 30 days is directory not mandatory; statute is not intended to be codification of right to speedy trial. *In re T.K.*, 11 K.A.2d 632, 634, 635, 636, 637, 731 P.2d 887 (1987).

38-1624. Temporary orders pending appeal; status of orders appealed from. (a) Pending the determination of the appeal, any order appealed from shall continue in force unless modified by temporary orders as provided in subsection (b).

(b) The court on appeal, pending a hearing, may modify the order appealed from and may make temporary orders concerning the care and custody of the respondent as the court considers advisable.

History: L. 1982, ch. 182, § 115; Jan. 1, 1983.

38-1625. Fees and expenses. When an appeal is taken pursuant to this code, fees of an attorney appointed to represent the respondent shall be fixed by the district court. The fees, together with the costs of transcripts and records on appeal, shall be taxed as expenses on appeal. The court on appeal may assess the fees and expenses against

the appealing party or order that they be paid from the general fund of the county. When the court orders the fees and expenses assessed against the appealing party:

(a) The fees and expenses shall be paid from the county general fund, subject to reimbursement by the appealing party; and

(b) the county may enforce the order as a civil judgment, except the county shall not be required to pay the docket fee or fee for execution.

History: L. 1982, ch. 182, § 116; Jan. 1, 1983.

CASE ANNOTATIONS

1. Right of indigent parent to counsel under 38-1505 held to be not wholly dependent on request for same. *In re S.R.H.*, 15 K.A.2d 415, 418, 809 P.2d 1 (1991).

38-1686 to 38-1690. Reserved.

DETENTION IN JAIL

* **38-1691.** Prohibiting placement or detainment of juvenile in jail; exceptions; hearing; county exemption; documentation to the attorney general. (a) On and after January 1, 1993, no juvenile shall be detained or placed in any jail pursuant to the Kansas juvenile offenders code except as provided by subsections (b) and (c).

(b) Upon being taken into custody, an alleged juvenile offender may be temporarily detained in a jail, in quarters with sight and sound separation from adult prisoners, for the purpose of identifying and processing the juvenile and transferring the juvenile to a youth residential facility or juvenile detention facility. If a juvenile is detained in jail under this subsection, the juvenile shall be so detained only for the minimum time necessary, not to exceed six hours, and in no case overnight. Prior to January 1, 1994, if a juvenile is detained in a jail under this subsection, the juvenile may be detained for no more than 24 hours, excluding Saturdays, Sundays and legal holidays, from the time the initial detention was imposed if all of the following criteria are met:

(1) A detention hearing is held in accordance with K.S.A. 38-1632 and amendments thereto within 24 hours, excluding Saturdays, Sundays and legal holidays, after the juvenile is taken into custody and notice of such hearing, unless waived, is given at least eight hours prior to the hearing;

(2) no part of the county where the juvenile is in custody is within an area designated by the United States bureau of the census as a standard metropolitan statistical area;

(3) there is no acceptable alternative placement for the juvenile, as determined in accordance with applicable criteria provided by law; and

(4) the jail where the juvenile is detained has been certified by the secretary of corrections to provide for sight and sound separation of juveniles and incarcerated adults.

(c) The provisions of this section do not apply to detention of:

(1) A juvenile 16 years of age or over who is charged with a felony or with more than one offense of which one or more is a felony after having been adjudicated in two separate prior juvenile proceedings as having committed an act which would constitute a felony if committed by an adult and the adjudications occurred prior to the date of the commission of the new act charged;

(2) a juvenile who has been prosecuted as an adult by reason of subsection (c)(1) and whose prosecution results in conviction of a crime;

(3) a juvenile with regard to whom a motion has been filed requesting prosecution as an adult pursuant to K.S.A. 38-1636 and amendments thereto; or

(4) a juvenile who has been charged with or convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto.

(d) This section shall be part of and supplemental to the Kansas juvenile offenders code.

(e) (1) A county may request, from the attorney general, to be exempt from the provisions of this section through December 31, 1993, if such county submits a plan meeting the following criteria:

(A) Documentation of the reasons why the county cannot meet the requirements of this section;

(B) a statement of unequivocal commitment to meeting the requirements of this section by January 1, 1994;

(C) documentation of the resources to be created or contracted for to meet the requirements; and

(D) creation of a community committee to implement the plan.

(2) The county shall submit such request to the attorney general on or before December 1, 1992. The attorney general shall decide whether the county has met the criteria within 30 days of receipt of such request and shall notify, in writing, such county and the department of social and rehabilitation services of the decision.

History: L. 1990, ch. 150, § 7; July 1.

33-1692 to 33-16,110. Reserved.

JUVENILE FELONS

* **33-16,111.** Juvenile felon; placement; notification to court; detainment. When a juvenile felon has been placed in the custody of the secretary of the department of corrections, the secretary shall notify the sheriff having such juvenile felon in custody to convey such offender at a time designated by the department of social and rehabilitation services to the youth center at Topeka or the youth center at Beloit. The secretary shall notify the court in writing of the initial placement of the juvenile felon in the youth center at Topeka or the youth center at Beloit as soon as the placement has been accomplished. The secretary shall not permit the juvenile felon to remain detained in any jail for more than 72 hours, excluding Saturdays, Sundays and legal holidays, after the secretary has received the written order of the court placing the juvenile felon in the custody of the secretary, except that, if that placement cannot be accomplished, the juvenile felon may remain in jail for an additional period of time, not exceeding 10 days, which is specified by the secretary and approved by the court.

History: L. 1990, ch. 149, § 10; July 1.

* **33-16,112.** Same; definition. As used in this act, the term "juvenile felon" means those persons who are 14 or 15 years of age at the time of the offense alleged in the complaint, such offense is a class A or B felony, such person was prosecuted as an adult and such person has been found guilty of such offense.

History: L. 1990, ch. 149, § 11; July 1.

Revisor's Note:

For sections included in this act, see L. 1990, ch. 149, in the Comparative Table of Sections in Constitutions Volume.

This section was amended by L. 1992, ch. 239, § 299, effective July 1, 1993.

33-16,113 to 33-16,115. Reserved.

CHILD SUPPORT ORDERED UNDER THE CODE

* **33-16,116.** Determination of parentage under the code. (a) If a party denies the existence of the parent and child relationship between that party and the juvenile, the court may stay child support proceedings, if any are pending in the case, with respect to that alleged parent and child relationship until the dispute is resolved by agreement, by a separate action under the Kansas parentage act, or otherwise. Nothing in this section shall be construed to limit the power of the court to carry out the purposes of the Kansas juvenile offenders code.

(b) When there is a dispute with respect to a parent and child relationship, the court or the custodian of the juvenile may consent to examinations of the juvenile including, but not limited to, withdrawal of blood or other body fluids or tissues, for the purpose of resolving the parentage dispute.

(c) This section shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1992, ch. 312, § 24; July 1.

- * **33-16,117.** Determination of child support under code. (a) In determining the amount of a child support order under the Kansas juvenile offenders code, the court shall apply the Kansas child support guidelines adopted pursuant to K.S.A. 20-165 and amendments thereto.

(b) If the appropriate amount of support under the Kansas child support guidelines cannot be determined because any necessary fact is not proven by evidence or by stipulation of the appropriate parties, the court shall apply one or more of the following presumptions:

(1) Both parents have only gross earned income equal to 40 hours per week at the federal minimum wage then in effect;

(2) neither parent's income is subject to adjustment for any reason;

(3) the number of children is as alleged in the complaint;

(4) the age of each child is as alleged in the complaint or, if unknown, is between seven and 15 years;

(5) no adjustment for child care, health or dental insurance or income tax exemption is appropriate; or

(6) neither parent is entitled to any other credit or adjustment.

(c) If the county or district attorney determines that: (1) A parent will contest the amount of support resulting from application of the guidelines; (2) the parent is or may be entitled to an adjustment pursuant to the guidelines; and (3) it is in the juvenile's best interests to resolve the support issue promptly and with minimal hostility, the county or district attorney may enter into a stipulation with the parent as to the amount of child support for that parent. The amount of support may be based upon one or more of the presumptions in subsection (b). Except for good cause or as otherwise provided in K.S.A. 1992 Supp. 38-16,119, a stipulation under this subsection shall be binding upon the court and all parties. The criteria for application of this subsection shall be incorporated into the journal entry or judgment form.

History: L. 1992, ch. 312, § 25; July 1.

- * **33-16,118.** Journal entry for child support under code. When child support is ordered pursuant to the Kansas juvenile offenders code, a separate journal entry or judgment form shall be made for each parent ordered to pay child support. The journal entry or judgment form shall be entitled:

"In the matter of _____
(obligee's name)
and _____
(obligor's name)"

and shall contain no reference to the official file or social file in the case except the facts necessary to establish personal jurisdiction over the parent, the name and date of birth of each child, and findings of fact and conclusions of law directly related to the child support obligation. If the court issues an income withholding order for the parent, it shall be captioned in the same manner.

History: L. 1992, ch. 312, § 26; July 1.

- * **33-16,119.** Withholding order for child support under code; filing; service. (a) A party entitled to receive child support under an order issued pursuant to the Kansas juvenile offenders code may file with the clerk of the district court in the county in which the judgment was rendered the original child support order and the original income withholding order, if any. If the original child support or income withholding order is unavailable for any reason, a certified or authenticated copy of the order may be substituted. The clerk of the district court shall number the child support order as a case filed under chapter 60 of the Kansas Statutes Annotated and enter the numbering of the case on the appearance docket of the case. Registration of a child support order under this section shall be without cost or docket fee.

(b) If the number assigned to a case under the Kansas juvenile offenders code appears in the caption of a document filed pursuant to this section, the clerk of the district court may obliterate that number and replace it with the new case number assigned pursuant to this section.

(c) The filing of the child support order shall constitute registration under this section. Upon registration of the child support order, all matters related to that order, including but not limited to modification of the order, shall proceed under the new case number. Registration of a child support order under this section does not confer jurisdiction in the registration case for custody or visitation issues.

(d) The party registering a child support order shall serve a copy of the registered child support order and income withholding order, if any, upon the interested parties by first-class mail. The party registering the child support order shall file, in the official file for each child affected, either a copy of the registered order showing the new case number or a statement that includes the caption, new case number and date of registration of the child support order.

(e) If the secretary of social and rehabilitation services is entitled to receive payment under an order which may be registered under this section, the county or district attorney shall take the actions permitted or required in subsections (a) and (d) on behalf of the secretary, unless otherwise requested by the secretary.

(f) A child support order registered pursuant to this section shall have the same force and effect as an original child support order entered under chapter 60 of the Kansas Statutes Annotated including, but not limited to:

(1) The registered order shall become a lien on the real estate of the judgment debtor in the county from the date of registration;

(2) execution or other action to enforce the registered order may be had from the date of registration;

(3) the registered order may itself be registered pursuant to any law, including but not limited to the revised uniform reciprocal enforcement of support act (1968);

(4) if any installment of support due under the registered order becomes a dormant judgment, it may be revived pursuant to K.S.A. 60-2404 and amendments thereto; and

(5) the court shall have continuing jurisdiction over the parties and subject matter and, except as otherwise provided in subsection (g), may modify any prior support order when a material change in circumstances is shown irrespective of the present domicile of the child or parents. The court may make a modification of child support retroactive to a date at least one month after the date that the motion to modify was filed with the court.

(g) If a motion to modify the child support order is filed within three months after the date of registration pursuant to this section; if no motion to modify the order has previously been heard and if the moving party shows that the support order was based upon one or more of the presumptions provided in K.S.A. 1992 Supp. 38-16,117 or upon a stipulation pursuant

to subsection (c) of K.S.A. 1992 Supp. 38-16,117, the court shall apply the Kansas child support guidelines adopted pursuant to K.S.A. 20-165 and amendments thereto without requiring any party to show that a material change of circumstances has occurred, without regard to any previous presumption or stipulation used to determine the amount of the child support order, and irrespective of the present domicile of the child or parents. Nothing in this subsection shall prevent or limit enforcement of the support order during the three months after the date of registration.

History: L. 1992, ch. 312, § 27; July 1.

* **38-16,120.** Remedies supplemental not substitute. (a) The remedies provided in this code with respect to child support are in addition to and not in substitution for any other remedy.

(b) This section and K.S.A. 1992 Supp. 38-16,116, 38-16,117, 38-16,118 and 38-16,119 and amendments thereto shall be part of and supplemental to the Kansas juvenile offenders code.

History: L. 1992, ch. 312, § 28; July 1.

JUVENILE ACTIVITY

Arrests

	92	91	90	89	88	83	%(88)	%(83)
Index	9373	9540	9008	8196	8201	6180	20.4	59.8
Other	15687	13810	12867	12918	12576	8773	24.7	78.8
TOTAL	25560	23350	21875	21114	20777	14953	23.0	70.9

Admissions to Probation	6756	6522	5782	5013	4919	3060	37.3	120.8
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Admissions to Jail/Detention								
Offenders	4915	4386	4638	4354	4163	1343		
CINC	654	579	758	826	675	188		

Detention Admissions								
	1992		1993					
Offenders	3326 (12:20:37)		1684 (11:5:5)					
CINC	346 (5:9:27)		211 (3:2:23)					

Jail Admissions

Offenders	1607 (11:8:28)	628 (12:23:24)
CINC	308 (8:5:42)	104 (6:23:30)

Waivers to Adult (Court)	156	158
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Senate Judiciary
10/28/93
attachment 8-1

ARRESTS BY AGE
TYPE OF OFFENSE
1992

CRIME INDEX OFFENSES	<10	10-12	13-14	15	16	17	JUVENILE TOTAL
Murder	0	0	0	2	5	2	9
Rape	1	3	5	4	4	13	30
Robbery	2	11	42	39	45	70	209
Aggravated Assault	26	98	195	116	202	178	815
Burglary	61	186	508	342	488	380	1,965
Theft	250	993	1,710	1,073	1,229	1,064	6,319
Motor Vehicle Theft	6	38	119	95	89	70	417
Arson	23	19	32	14	12	9	109
TOTAL CRIME INDEX	369	1,348	2,611	1,685	2,074	1,786	9,873
CLASS II OFFENSES							
Neg. Manslaughter	0	0	0	0	0	0	0
Other Assaults	58	301	572	336	388	428	2,083
Forgery	0	3	23	34	61	65	186
Fraud	1	3	3	0	5	8	20
Embezzlement	0	0	1	0	0	1	2
Stolen Property	1	9	34	28	37	40	149
Vandalism	196	358	536	347	507	298	2,242
Weapons	9	30	126	105	154	161	585
Prostitution	0	1	2	2	0	1	6
Other Sex Offenses	15	40	54	37	35	37	218
DRUG OFFENSES							
Sale-Narcotics	0	0	3	5	22	27	57
Sale-Marijuana	0	1	13	13	21	22	70
Sale-Synth Narc	0	0	0	0	0	0	0
Sale-Other	0	0	1	0	1	2	4
SALE SUBTOTAL	0	1	17	18	44	51	131
Poss-Narcotics	0	2	12	19	25	48	106
Poss-Marijuana	0	4	45	52	87	131	319
Poss-Synth Narc	0	0	5	4	3	2	14
Poss-Other	0	1	3	2	6	1	13
POSSESSION SUBTOTAL	0	7	65	77	121	182	452
DRUG OFFENSE TOTAL	0	8	82	95	165	233	583
GAMBLING OFFENSES							
Bookmaking	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0
Other Gambling	0	0	1	1	1	0	3
GAMBLING TOTAL	0	0	1	1	1	0	3
FAMILY OFFENSES							
Family Offenses	0	0	0	0	0	0	0
DWI	2	1	4	20	82	195	304
Liquor Violations	0	8	104	220	440	678	1,450
Drunkenness	0	1	7	0	3	3	14
Disorderly Conduct	13	84	254	162	184	200	897
Vagrancy	0	0	4	0	0	8	12
All Other	69	227	528	419	559	777	2,579
Suspicion	10	3	10	6	7	6	42
Curfew-Loitering	8	67	393	330	381	398	1,577
Runaway	56	166	856	678	599	380	2,735
CLASS II TOTAL	438	1,310	3,594	2,820	3,608	3,917	15,687
GRAND TOTAL	807	2,658	6,205	4,505	5,682	5,703	25,560

ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1992

CRIME INDEX OFFENSES	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	9	0	9	103	13	116
Rape	30	0	30	255	3	258
Robbery	187	22	209	503	36	539
Aggravated Assault	703	112	815	2,432	399	2,831
Burglary	1,855	110	1,965	2,333	155	2,488
Theft	4,546	1,773	6,319	6,754	3,954	10,708
Motor Vehicle Theft	331	86	417	397	60	457
Arson	103	6	109	111	26	137
TOTAL CRIME INDEX	7,764	2,109	9,873	12,888	4,646	17,534

CLASS II OFFENSES

Neg. Manslaughter	0	0	0	17	3	20
Other Assaults	1,545	538	2,083	14,280	3,037	17,317
Forgery	146	40	186	764	385	1,149
Fraud	13	7	20	1,895	1,585	3,480
Embezzlement	2	0	2	51	25	76
Stolen Property	136	13	149	269	41	310
Vandalism	2,080	162	2,242	2,075	392	2,467
Weapons	562	23	585	1,632	172	1,804
Prostitution	2	4	6	98	594	692
Other Sex Offenses	192	26	218	806	49	855

DRUG OFFENSES

Sale-Narcotics	53	4	57	597	121	718
Sale-Marijuana	59	11	70	645	133	778
Sale-Synth Narc	0	0	0	60	13	73
Sale-Other	3	1	4	31	22	53
SALE SUBTOTAL	115	16	131	1,333	289	1,622
Poss-Narcotics	87	19	106	1,174	347	1,521
Poss-Marijuana	265	54	319	3,127	552	3,679
Poss-Synth Narc	12	2	14	56	13	69
Poss-Other	12	1	13	169	53	222
POSSESSION SUBTOTAL	376	76	452	4,526	965	5,491
DRUG OFFENSE TOTAL	491	92	583	5,859	1,254	7,113

GAMBLING OFFENSES

Bookmaking	0	0	0	2	0	2
Numbers	0	0	0	1	0	1
Other Gambling	3	0	3	37	2	39
GAMBLING TOTAL	3	0	3	40	2	42

Family Offenses	0	0	0	377	99	476
DWI	252	52	304	19,044	3,221	22,265
Liquor Violations	1,077	373	1,450	5,359	1,223	6,582
Drunkenness	14	0	14	34	5	39
Disorderly Conduct	640	257	897	3,836	1,108	4,944
Vagrancy	12	0	12	57	12	69
All Other	2,052	527	2,579	27,716	7,618	35,334
Suspicion	30	12	42	26	3	29
Curfew-Loitering	1,083	494	1,577	0	0	0
Runaway	1,134	1,601	2,735	0	0	0

CLASS II TOTAL	11,466	4,221	15,687	84,235	20,828	105,063
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11,466 4,221 15,687 84,235 20,828 105,063

ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1992

CRIME INDEX OFFENSES	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON- HISPANIC	TOTAL ETHNIC ORIGIN
Murder	4	5	0	0	9	2	7	9
Rape	21	8	1	0	30	0	30	30
Robbery	102	102	4	1	209	9	200	209
Aggravated Assault	575	219	4	17	815	61	754	815
Burglary	1,575	369	15	6	1,965	109	1,856	1,965
Theft	4,906	1,330	18	65	6,319	407	5,912	6,319
Motor Vehicle Theft	286	122	7	2	417	44	373	417
Arson	96	12	0	1	109	9	100	109
TOTAL CRIME INDEX	7,565	2,167	49	92	9,873	641	9,232	9,873
CLASS II OFFENSES								
Neg. Manslaughter	0	0	0	0	0	0	0	0
Other Assaults	1,592	476	10	5	2,083	187	1,896	2,083
Forgery	172	13	1	0	186	15	171	186
Fraud	18	1	0	1	20	1	19	20
Embezzlement	2	0	0	0	2	0	2	2
Stolen Property	100	47	0	2	149	9	140	149
Vandalism	2,002	219	12	9	2,242	81	2,161	2,242
Weapons	328	249	7	1	585	23	562	585
Prostitution	3	3	0	0	6	0	6	6
Other Sex Offenses	179	38	0	1	218	12	206	218
DRUG OFFENSES								
Sale-Narcotics	11	45	1	0	57	0	57	57
Sale-Marihuana	46	23	0	1	70	4	66	70
Sale-Synth Narc	0	0	0	0	0	0	0	0
Sale-Other	3	1	0	0	4	0	4	4
SALE SUBTOTAL	60	69	1	1	131	4	127	131
Poss-Narcotics	16	90	0	0	106	2	104	106
Poss-Marijuana	251	66	0	2	319	11	308	319
Poss-Synth Narc	11	3	0	0	14	0	14	14
Poss-Other	13	0	0	0	13	0	13	13
POSSESSION SUBTOTAL	291	159	0	2	452	13	439	452
DRUG OFFENSE TOTAL	351	228	1	3	583	17	566	583
GAMBLING OFFENSES								
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other Gambling	0	3	0	0	3	0	3	3
GAMBLING TOTAL	0	3	0	0	3	0	3	3
Family Offenses	0	0	0	0	0	0	0	0
DWI	292	12	0	0	304	12	292	304
Liquor Violations	1,388	55	7	0	1,450	53	1,397	1,450
Drunkenness	12	2	0	0	14	1	13	14
Disorderly Conduct	698	191	4	4	897	69	828	897
Vagrancy	10	2	0	0	12	0	12	12
All Other	1,970	571	19	19	2,579	144	2,435	2,579
Suspicion	38	4	0	0	42	2	40	42
Curfew-Loitering	1,248	319	4	6	1,577	169	1,408	1,577
Runaway	2,225	454	37	19	2,735	129	2,606	2,735
CLASS II TOTAL	12,628	2,887	102	70	15,687	924	14,763	15,687
GRAND TOTAL	20,193	5,054	151	162	25,560	1,565	23,995	25,560

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	TYPE OF OFFENSE 1991						JUVENILE TOTAL
	<10	10-12	13-14	15	16	17	
CRIME INDEX OFFENSES							
							15
	0	0	2	2	7	4	44
Murder	2	2	11	4	12	13	175
Rape	0	4	32	44	45	50	597
Robbery	22	72	123	85	168	127	1,895
Aggravated Assault	67	154	441	375	417	441	6,303
Burglary	267	966	1,783	1,022	1,173	1,092	406
Theft	1	16	107	105	103	74	105
Motor Vehicle Theft	20	31	25	6	9	14	9,540
Arson	379	1,245	2,524	1,643	1,934	1,815	
TOTAL CRIME INDEX							
							2
CLASS II OFFENSES							
	0	0	1	0	1	0	1,811
Neg. Manslaughter	42	245	455	345	330	394	112
Other Assaults	2	2	17	18	33	40	19
Forgery	0	1	2	1	3	12	2
Fraud	0	0	0	0	2	0	124
Embezzlement	0	0	0	0	34	30	1,706
Stolen Property	5	7	25	23	283	266	424
Vandalism	170	340	443	204	109	97	3
Weapons	8	32	105	73	109	2	223
Prostitution	0	0	0	0	1	2	
Other Sex Offenses	4	26	69	56	41	27	
							57
DRUG OFFENSES							
	0	0	3	9	22	23	55
Sale-Narcotics	0	0	9	8	16	22	2
Sale-Marijuana	0	0	1	0	0	1	2
Sale-Synth Narc	0	0	0	1	1	0	116
Sale-Other	0	0	13	18	39	46	82
SALE SUBTOTAL	0	0	14	12	21	35	255
Poss-Narcotics	0	0	14	12	78	94	8
Poss-Marijuana	4	5	24	50	3	4	16
Poss-Synth Narc	0	0	1	0	2	1	361
Poss-Other	1	1	9	2	104	134	477
POSSESSION SUBTOTAL	5	6	48	64	143	180	
DRUG OFFENSE TOTAL	5	6	61	82	143	180	
							0
GAMBLING OFFENSES							
	0	0	0	0	0	0	0
Bookmaking	0	0	0	0	0	0	3
Numbers	1	0	0	0	1	1	3
Other Gambling	1	0	0	0	1	1	
GAMBLING TOTAL							
							57
Family Offenses	16	8	7	9	6	11	366
DWI	1	0	7	16	101	241	1,432
Liquor Violations	2	11	100	198	444	677	0
Drunkenness	0	0	0	0	0	0	810
Disorderly Conduct	0	0	0	0	155	184	2
Vagrancy	16	100	210	145	1	1	2,613
All Other	0	0	0	0	634	708	31
Suspicion	82	210	577	402	10	12	798
Curfew-Loitering	0	0	2	7	135	103	2,795
Runaway	15	49	258	238	667	381	
	30	169	878	670			
							13,810
CLASS II TOTAL	399	1,206	3,217	2,487	3,134	3,367	23,350
GRAND TOTAL	778	2,451	5,741	4,130	5,068	5,182	

ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1991

CRIME INDEX OFFENSES	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	14	1	15	98	14	112
Rape	44	0	44	241	2	243
Robbery	165	10	175	555	57	612
Aggravated Assault	528	69	597	2,025	313	2,338
Burglary	1,787	108	1,895	2,199	136	2,335
Theft	4,566	1,737	6,303	6,950	3,995	10,945
Motor Vehicle Theft	354	52	406	380	34	414
Arson	97	8	105	105	28	133
TOTAL CRIME INDEX	7,555	1,985	9,540	12,553	4,579	17,132
CLASS II OFFENSES						
Neg. Manslaughter	2	0	2	22	4	26
Other Assaults	1,402	409	1,811	9,873	1,718	11,591
Forgery	87	25	112	606	425	1,031
Fraud	7	12	19	1,717	1,514	3,231
Embezzlement	2	0	2	60	19	79
Stolen Property	110	14	124	252	31	283
Vandalism	1,533	173	1,706	1,932	303	2,235
Weapons	401	23	424	1,254	129	1,383
Prostitution	3	0	3	180	391	571
Other Sex Offenses	212	11	223	896	81	977
DRUG OFFENSES						
Sale-Narcotics	51	6	57	509	103	612
Sale-Marijuana	48	7	55	511	101	612
Sale-Synth Narc	2	0	2	47	8	55
Sale-Other	2	0	2	52	6	58
SALE SUBTOTAL	103	13	116	1,119	218	1,337
Poss-Narcotics	71	11	82	1,075	341	1,416
Poss-Marijuana	215	40	255	2,564	390	2,954
Poss-Synth Narc	7	1	8	75	17	92
Poss-Other	7	9	16	178	52	230
POSSESSION SUBTOTAL	300	61	361	3,892	800	4,692
DRUG OFFENSE TOTAL	403	74	477	5,011	1,018	6,029
GAMBLING OFFENSES						
Bookmaking	0	0	0	0	0	0
Numbers	0	0	0	3	0	3
Other Gambling	3	0	3	44	4	48
GAMBLING TOTAL	3	0	3	47	4	51
Family Offenses	33	24	57	208	56	264
DWI	306	60	366	18,544	2,917	21,461
Liquor Violations	1,045	387	1,432	5,088	1,200	6,288
Drunkenness	0	0	0	32	1	33
Disorderly Conduct	639	171	810	3,294	783	4,077
Vagrancy	2	0	2	49	7	56
All Other	2,006	607	2,613	26,391	8,191	34,582
Suspicion	29	2	31	45	8	53
Curfew-Loitering	562	236	798	0	0	0
Runaway	1,260	1,535	2,795	0	0	0
CLASS II TOTAL	10,047	3,763	13,810	75,501	18,800	94,301
GRAND TOTAL	17,602	5,748	23,350	88,054	23,379	111,433

ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1991

CRIME INDEX OFFENSES	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON- HISPANIC	TOTAL ETHNIC ORIGIN
Murder	9	5	0	1	15	7	8	15
Rape	27	17	0	0	44	7	37	44
Robbery	63	109	1	2	175	3	172	175
Aggravated Assault	426	160	4	7	597	28	569	597
Burglary	1,556	315	11	13	1,895	141	1,754	1,895
Theft	4,855	1,363	36	49	6,303	329	5,974	6,303
Motor Vehicle Theft	260	138	7	1	406	14	392	406
Arson	100	4	0	1	105	6	99	105
TOTAL CRIME INDEX	7,296	2,111	59	74	9,540	535	9,005	9,540
CLASS II OFFENSES								
Neg. Manslaughter	2	0	0	0	2	1	1	2
Other Assaults	1,361	438	6	6	1,811	162	1,649	1,811
Forgery	100	11	1	0	112	2	110	112
Fraud	12	7	0	0	19	3	16	19
Embezzlement	32	0	0	0	2	0	2	2
Stolen Property	87	37	0	0	124	2	122	124
Vandalism	1,475	214	11	6	1,706	126	1,580	1,706
Weapons	265	154	0	5	424	20	404	424
Prostitution	1	2	0	0	3	0	3	3
Other Sex Offenses	169	54	0	0	223	13	210	223
DRUG OFFENSES								
Sale-Narcotics	8	49	0	0	57	1	56	57
Sale-Marihuana	49	4	2	0	55	4	51	55
Sale-Synth Narc	0	2	0	0	2	0	2	2
Sale-Other	2	0	0	0	2	0	2	2
SALE SUBTOTAL	59	55	2	0	116	5	111	116
Poss-Narcotics	20	62	0	0	82	1	81	82
Poss-Marijuana	199	54	1	1	255	9	246	255
Poss-Synth Narc	6	1	0	1	8	2	6	8
Poss-Other	16	0	0	0	16	4	12	16
POSSESSION SUBTOTAL	241	117	1	2	361	16	345	361
DRUG OFFENSE TOTAL	300	172	3	2	477	21	456	477
GAMBLING OFFENSES								
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other Gambling	1	1	0	1	3	0	3	3
GAMBLING TOTAL	1	1	0	1	3	0	3	3
Family Offenses	52	5	0	0	57	8	49	57
DWI	349	12	5	0	366	17	349	366
Liquor Violations	1,370	52	5	5	1,432	74	1,358	1,432
Drunkenness	0	0	0	0	0	0	0	0
Disorderly Conduct	594	207	9	0	810	89	721	810
Vagrancy	0	2	0	0	2	0	2	2
All Other	2,178	412	7	16	2,613	132	2,481	2,613
Suspicion	31	0	0	0	31	0	31	31
Curfew-Loitering	691	98	3	6	798	87	711	798
Runaway	2,281	458	37	19	2,795	113	2,682	2,795
CLASS II TOTAL	11,321	2,336	87	66	13,810	870	12,940	13,810
GRAND TOTAL	18,617	4,447	146	140	23,350	1,405	21,945	23,350

ARRESTS BY AGE
TYPE OF OFFENSE
1990

CRIME INDEX OFFENSES	<10	10-12	13-14	15	16	17	JUVENILE TOTAL
Murder	0	1	1	3	2	10	17
Rape	0	2	8	8	11	10	39
Robbery	0	6	27	21	41	44	139
Aggravated Assault	26	64	80	77	84	129	460
Burglary	55	171	423	326	379	440	1,794
Theft	274	912	1,524	981	1,150	1,046	5,887
Motor Vehicle Theft	4	23	108	125	135	148	543
Arson	13	43	31	13	10	19	129
TOTAL CRIME INDEX	372	1,222	2,202	1,554	1,812	1,846	9,008
CLASS II OFFENSES							
Neg. Manslaughter	0	0	0	0	1	0	1
Other Assaults	58	253	426	280	301	351	1,669
Forgery	4	8	14	25	28	41	120
Fraud	1	2	3	5	10	19	40
Embezzlement	0	0	0	0	2	2	4
Stolen Property	3	6	14	39	41	44	147
Vandalism	158	272	382	243	274	249	1,578
Weapons	0	17	51	47	69	77	261
Prostitution	0	0	0	2	2	4	8
Other Sex Offenses	7	33	59	45	33	37	214
DRUG OFFENSES							
Sale-Narcotics	0	1	0	7	16	27	51
Sale-Marijuana	0	0	4	9	23	29	65
Sale-Synth Narc	0	0	0	0	0	1	1
Sale-Other	0	1	2	0	1	2	6
SALE SUBTOTAL	0	2	6	16	40	59	123
Poss-Narcotics	0	0	3	3	13	27	46
Poss-Marijuana	0	4	33	47	85	134	303
Poss-Synth Narc	0	0	0	0	5	3	8
Poss-Other	0	2	2	3	2	7	16
POSSESSION SUBTOTAL	0	6	38	53	105	171	373
DRUG OFFENSE TOTAL	0	8	44	69	145	230	496
GAMBLING OFFENSES							
Bookmaking	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0
Other Gambling	0	0	0	0	0	0	0
GAMBLING TOTAL	0	0	0	0	0	0	0
Family Offenses	0	0	0	0	0	2	2
DWI	5	1	2	14	104	184	310
Liquor Violations	3	5	118	285	589	855	1,855
Drunkenness	0	0	1	2	4	1	8
Disorderly Conduct	14	70	160	125	139	177	685
Vagrancy	0	2	1	1	1	1	6
All Other	80	180	478	405	494	636	2,273
Suspicion	1	2	3	2	5	9	22
Curfew-Loitering	4	30	173	120	138	137	602
Runaway	31	131	762	649	643	350	2,566
CLASS II TOTAL	369	1,020	2,691	2,358	3,023	3,406	12,867
GRAND TOTAL	741	2,242	4,893	3,912	4,835	5,252	21,875

ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1990

CRIME INDEX OFFENSES	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	16	1	17	76	4	80
Rape	39	0	39	241	2	243
Robbery	137	2	139	465	48	513
Aggravated Assault	412	48	460	1,983	244	2,227
Burglary	1,687	107	1,794	2,154	141	2,295
Theft	4,236	1,651	5,887	6,581	3,963	10,544
Motor Vehicle Theft	505	38	543	432	60	492
Arson	111	18	129	75	8	83
TOTAL CRIME INDEX	7,143	1,865	9,008	12,007	4,470	16,477
CLASS II OFFENSES						
Neg. Manslaughter	1	0	1	10	1	11
Other Assaults	1,264	405	1,669	9,605	1,584	11,189
Forgery	72	48	120	485	272	757
Fraud	24	16	40	1,508	1,420	2,928
Embezzlement	3	1	4	63	30	93
Stolen Property	135	12	147	311	34	345
Vandalism	1,432	146	1,578	1,838	272	2,110
Weapons	252	9	261	1,134	95	1,229
Prostitution	2	6	8	97	500	597
Other Sex Offenses	202	12	214	821	63	884
DRUG OFFENSES						
Sale-Narcotics	47	4	51	503	121	624
Sale-Marijuana	56	9	65	557	127	684
Sale-Synth Narc	1	0	1	46	14	60
Sale-Other	5	1	6	57	20	77
SALE SUBTOTAL	109	14	123	1,163	282	1,445
Poss-Narcotics	43	3	46	637	187	824
Poss-Marijuana	263	40	303	2,400	405	2,805
Poss-Synth Narc	5	3	8	69	26	95
Poss-Other	11	5	16	213	64	277
POSSESSION SUBTOTAL	322	51	373	3,319	682	4,001
DRUG OFFENSE TOTAL	431	65	496	4,482	964	5,446
GAMBLING OFFENSES						
Bookmaking	0	0	0	0	0	0
Numbers	0	0	0	0	5	5
Other Gambling	0	0	0	40	3	43
GAMBLING TOTAL	0	0	0	40	8	48
Family Offenses	0	2	2	259	62	321
DWI	244	66	310	17,131	2,822	19,953
Liquor Violations	1,353	502	1,855	5,567	1,343	6,910
Drunkenness	6	2	8	20	2	22
Disorderly Conduct	541	144	685	3,485	776	4,261
Vagrancy	0	6	6	54	25	79
All Other	1,864	409	2,273	22,395	6,579	28,974
Suspicion	17	5	22	60	3	63
Curfew-Loitering	427	175	602	0	0	0
Runaway	1,223	1,343	2,566	0	0	0
CLASS II TOTAL	9,493	3,374	12,867	69,365	16,855	86,220
GRAND TOTAL	16,636	5,239	21,875	81,372	21,325	102,697

ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1990

CRIME INDEX OFFENSES	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON- HISPANIC	TOTAL ETHNIC ORIGIN
Murder	4	13	0	0	17	0	17	17
Rape	18	21	0	0	39	2	37	39
Robbery	39	98	0	2	139	6	133	139
Aggravated Assault	329	123	4	4	460	42	418	460
Burglary	1,474	292	8	20	1,794	87	1,707	1,794
Theft	4,452	1,346	34	55	5,887	277	5,610	5,887
Motor Vehicle Theft	337	197	6	3	543	9	534	543
Arson	114	15	0	0	129	9	120	129
TOTAL CRIME INDEX	6,767	2,105	52	84	9,008	432	8,576	9,008
CLASS II OFFENSES								
Neg. Manslaughter	1	0	0	0	1	0	1	1
Other Assaults	1,196	458	10	5	1,669	158	1,511	1,669
Forgery	104	16	0	0	120	0	120	120
Fraud	33	7	0	0	40	2	38	40
Embezzlement	4	0	0	0	4	0	4	4
Stolen Property	78	62	2	5	147	5	142	147
Vandalism	1,356	216	2	4	1,578	78	1,500	1,578
Weapons	185	75	1	0	261	19	242	261
Prostitution	6	2	0	0	8	0	8	8
Other Sex Offenses	154	58	1	1	214	8	206	214
DRUG OFFENSES								
Sale-Narcotics	13	38	0	0	51	1	50	51
Sale-Marihuana	50	14	1	0	65	0	65	65
Sale-Synth Narc	1	0	0	0	1	0	1	1
Sale-Other	5	1	0	0	6	3	3	6
SALE SUBTOTAL	69	53	1	0	123	4	119	123
Poss-Narcotics	7	38	0	1	46	0	46	46
Poss-Marijuana	245	54	4	0	303	8	295	303
Poss-Synth Narc	8	0	0	0	8	0	8	8
Poss-Other	12	3	1	0	16	1	15	16
POSSESSION SUBTOTAL	272	95	5	1	373	9	364	373
DRUG OFFENSE TOTAL	341	148	6	1	496	13	483	496
GAMBLING OFFENSES								
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other Gambling	0	0	0	0	0	0	0	0
GAMBLING TOTAL	0	0	0	0	0	0	0	0
Family Offenses	2	0	0	0	2	0	2	2
DWI	298	8	4	0	310	14	296	310
Liquor Violations	1,790	54	7	4	1,855	59	1,796	1,855
Drunkenness	8	0	0	0	8	0	8	8
Disorderly Conduct	508	175	1	1	685	62	623	685
Vagrancy	6	0	0	0	6	0	6	6
All Other	1,805	443	18	7	2,273	107	2,166	2,273
Suspicion	18	4	0	0	22	4	18	22
Curfew-Loitering	525	65	3	9	602	65	537	602
Runaway	2,173	349	30	14	2,566	72	2,494	2,566
CLASS II TOTAL	10,591	2,140	85	51	12,867	666	12,201	12,867
GRAND TOTAL	17,358	4,245	137	135	21,875	1,098	20,777	21,875

ARRESTS BY AGE
TYPE OF OFFENSE
1989

CRIME INDEX OFFENSES	<10	10-12	13-14	15	16	17	JUVENILE TOTAL
Murder	0	0	3	2	2	1	8
Rape	0	1	7	4	6	11	29
Robbery	0	5	23	12	34	41	115
Aggravated Assault	16	48	67	65	87	97	380
Burglary	75	180	324	335	350	389	1,653
Theft	264	906	1,445	835	958	952	5,360
Motor Vehicle Theft	3	31	135	119	136	143	567
Arson	13	24	17	10	10	10	84
TOTAL CRIME INDEX	371	1,195	2,021	1,382	1,583	1,644	8,196
CLASS II OFFENSES							
Neg. Manslaughter	0	0	0	0	0	0	0
Other Assaults	54	291	397	236	299	331	1,608
Forgery	0	6	19	21	33	46	125
Fraud	0	0	3	9	14	16	42
Embezzlement	0	0	1	2	1	4	8
Stolen Property	3	5	29	30	32	28	127
Vandalism	127	253	352	198	226	247	1,403
Weapons	5	16	48	29	57	60	215
Prostitution	0	0	0	1	5	4	10
Other Sex Offenses	21	41	72	39	44	47	264
DRUG OFFENSES							
Sale-Narcotics	0	0	1	10	18	14	43
Sale-Marijuana	0	1	17	6	21	27	72
Sale-Synth Narc	0	0	2	1	1	2	6
Sale-Other	0	0	0	0	1	0	1
SALE SUBTOTAL	0	1	20	17	41	43	122
Poss-Narcotics	0	0	3	9	13	15	40
Poss-Marijuana	2	4	40	55	89	104	294
Poss-Synth Narc	0	0	0	0	0	2	2
Poss-Other	0	2	3	4	0	4	13
POSSESSION SUBTOTAL	2	6	46	68	102	125	349
DRUG OFFENSE TOTAL	2	7	66	85	143	168	471
GAMBLING OFFENSES							
Bookmaking	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0
Other Gambling	0	0	1	1	1	4	7
GAMBLING TOTAL	0	0	1	1	1	4	7
Family Offenses	10	3	18	20	13	3	67
DWI	0	1	2	10	76	193	282
Liquor Violations	4	7	147	241	598	1,021	2,018
Drunkenness	0	0	0	2	1	5	8
Disorderly Conduct	6	63	117	95	124	174	579
Vagrancy	0	0	3	2	0	6	11
All Other	78	198	459	377	494	642	2,248
Suspicion	1	1	2	4	7	3	18
Curfew-Loitering	7	50	189	149	174	120	689
Runaway	34	183	822	724	595	360	2,718
CLASS II TOTAL	352	1,125	2,747	2,275	2,937	3,482	12,918
GRAND TOTAL	723	2,320	4,768	3,657	4,520	5,126	21,114

ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1989

CRIME INDEX OFFENSES	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	7	1	8	61	14	75
Rape	29	0	29	181	2	183
Robbery	105	10	115	386	39	425
Aggravated Assault	341	39	380	1,590	243	1,833
Burglary	1,552	101	1,653	1,821	127	1,948
Theft	3,849	1,511	5,360	5,970	3,520	9,490
Motor Vehicle Theft	519	48	567	420	41	461
Arson	79	5	84	83	20	103
TOTAL CRIME INDEX	6,481	1,715	8,196	10,512	4,006	14,518
CLASS II OFFENSES						
Neg. Manslaughter	0	0	0	14	1	15
Other Assaults	1,251	357	1,608	7,024	1,108	8,132
Forgery	90	35	125	545	331	876
Fraud	21	21	42	1,303	1,123	2,426
Embezzlement	3	5	8	61	33	94
Stolen Property	115	12	127	321	43	364
Vandalism	1,223	180	1,403	1,448	207	1,655
Weapons	202	13	215	905	70	975
Prostitution	2	8	10	150	260	410
Other Sex Offenses	228	36	264	695	100	795
DRUG OFFENSES						
Sale-Narcotics	38	5	43	599	182	781
Sale-Marijuana	59	13	72	431	100	531
Sale-Synth Narc	6	0	6	89	20	109
Sale-Other	0	1	1	79	20	99
SALE SUBTOTAL	103	19	122	1,198	322	1,520
Poss-Narcotics	33	7	40	731	182	913
Poss-Marijuana	249	45	294	2,187	368	2,555
Poss-Synth Narc	1	1	2	93	24	117
Poss-Other	10	3	13	295	56	351
POSSESSION SUBTOTAL	293	56	349	3,306	630	3,936
DRUG OFFENSE TOTAL	396	75	471	4,504	952	5,456
GAMBLING OFFENSES						
Bookmaking	0	0	0	3	1	4
Numbers	0	0	0	0	0	0
Other Gambling	7	0	7	43	6	49
GAMBLING TOTAL	7	0	7	46	7	53
Family Offenses	39	28	67	277	65	342
DWI	231	51	282	13,408	2,090	15,498
Liquor Violations	1,381	637	2,018	5,462	1,323	6,785
Drunkenness	6	2	8	38	0	38
Disorderly Conduct	473	106	579	3,045	647	3,692
Vagrancy	8	3	11	163	102	265
All Other	1,750	498	2,248	18,283	5,326	23,609
Suspicion	18	0	18	37	9	46
Curfew-Loitering	485	204	689	0	0	0
Runaway	1,378	1,340	2,718	0	0	0
CLASS II TOTAL	9,307	3,611	12,918	57,729	13,797	71,526
GRAND TOTAL	15,788	5,326	21,114	68,241	17,803	86,044

ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1989

CRIME INDEX OFFENSES	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON- HISPANIC	TOTAL ETHNIC ORIGIN
Murder	5	3	0	0	8	1	7	8
Rape	20	8	1	0	29	1	28	29
Robbery	60	55	0	0	115	13	102	115
Aggravated Assault	288	84	3	5	380	34	346	380
Burglary	1,330	283	20	20	1,653	89	1,564	1,653
Theft	4,113	1,147	44	56	5,360	310	5,050	5,360
Motor Vehicle Theft	353	199	7	8	567	24	543	567
Arson	77	3	3	1	84	5	79	84
TOTAL CRIME INDEX	6,246	1,782	78	90	8,196	477	7,719	8,196
CLASS II OFFENSES								
Neg. Manslaughter	0	0	0	0	0	0	0	0
Other Assaults	1,152	438	7	11	1,608	109	1,499	1,608
Forgery	100	21	2	2	125	7	118	125
Fraud	33	5	4	0	42	2	40	42
Embezzlement	5	3	0	0	8	0	8	8
Stolen Property	66	55	0	6	127	11	116	127
Vandalism	1,197	190	6	10	1,403	80	1,323	1,403
Weapons	146	64	0	5	215	12	203	215
Prostitution	9	1	0	0	10	1	9	10
Other Sex Offenses	201	63	0	0	264	25	239	264
DRUG OFFENSES								
Sale-Narcotics	15	27	0	1	43	0	43	43
Sale-Marihuana	62	10	0	0	72	2	70	72
Sale-Synth Narc	6	0	0	0	6	3	3	6
Sale-Other	1	0	0	0	1	0	1	1
SALE SUBTOTAL	84	37	0	1	122	5	117	122
Poss-Narcotics	9	31	0	0	40	0	40	40
Poss-Marijuana	244	49	0	1	294	14	280	294
Poss-Synth Narc	2	0	0	0	2	0	2	2
Poss-Other	12	1	0	0	13	3	10	13
POSSESSION SUBTOTAL	267	81	0	1	349	17	332	349
DRUG OFFENSE TOTAL	351	118	0	2	471	22	449	471
GAMBLING OFFENSES								
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other Gambling	4	3	0	0	7	0	7	7
GAMBLING TOTAL	4	3	0	0	7	0	7	7
Family Offenses	56	10	1	0	67	3	64	67
DWI	274	4	2	2	282	17	265	282
Liquor Violations	1,960	48	6	4	2,018	74	1,944	2,018
Drunkenness	8	0	0	0	8	0	8	8
Disorderly Conduct	462	111	3	3	579	30	549	579
Vagrancy	10	1	0	0	11	1	10	11
All Other	1,830	403	5	10	2,248	151	2,097	2,248
Suspicion	18	0	0	0	18	0	18	18
Curfew-Loitering	612	72	1	4	689	123	566	689
Runaway	2,364	309	30	15	2,718	107	2,611	2,718
CLASS II TOTAL	10,858	1,919	67	74	12,918	775	12,143	12,918
GRAND TOTAL	17,104	3,701	145	164	21,114	1,252	19,862	21,114

8-13

ARRESTS BY AGE
TYPE OF OFFENSE
1988

CRIME INDEX OFFENSES	<10	10-12	13-14	15	16	17	JUVENILE TOTAL
Murder	0	0	0	2	3	1	6
Rape	0	2	6	2	8	5	23
Robbery	3	5	16	11	22	36	93
Aggravated Assault	11	34	68	68	82	91	354
Burglary	75	208	436	259	353	378	1,709
Theft	233	839	1,414	856	1,019	1,086	5,447
Motor Vehicle Theft	2	21	102	128	128	104	485
Arson	9	14	32	14	6	9	84
TOTAL CRIME INDEX	333	1,123	2,074	1,340	1,621	1,710	8,201
CLASS II OFFENSES							
Neg. Manslaughter	0	0	0	0	0	0	0
Other Assaults	40	221	331	212	286	304	1,394
Forgery	2	3	18	12	35	50	120
Fraud	0	1	6	5	18	30	60
Embezzlement	0	0	1	1	8	20	30
Stolen Property	1	12	40	28	34	34	149
Vandalism	164	270	313	215	372	307	1,641
Weapons	6	25	41	23	42	40	177
Prostitution	0	0	0	4	3	5	12
Other Sex Offenses	33	56	70	45	42	33	279
DRUG OFFENSES							
Sale-Narcotics	0	0	0	1	0	2	3
Sale-Marijuana	2	3	11	8	15	17	56
Sale-Synth Narc	0	0	1	3	0	0	4
Sale-Other	0	0	3	0	0	2	5
SALE SUBTOTAL	2	3	15	12	15	21	68
Poss-Narcotics	0	0	1	1	6	9	17
Poss-Marijuana	0	4	30	44	65	116	259
Poss-Synth Narc	0	0	2	1	4	6	13
Poss-Other	0	0	2	0	2	6	10
POSSESSION SUBTOTAL	0	4	35	46	77	137	299
DRUG OFFENSE TOTAL	2	7	50	58	92	158	367
GAMBLING OFFENSES							
Bookmaking	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0
Other Gambling	0	0	0	0	1	1	2
GAMBLING TOTAL	0	0	0	0	1	1	2
Family Offenses	34	17	29	22	6	14	122
DWI	1	0	3	11	73	174	262
Liquor Violations	2	13	102	262	601	990	1,970
Drunkenness	0	0	1	1	1	1	4
Disorderly Conduct	7	42	105	73	89	135	451
Vagrancy	0	0	1	3	5	3	12
All Other	52	174	422	337	465	663	2,113
Suspicion	0	0	5	5	3	5	18
Curfew-Loitering	2	21	179	145	148	178	673
Runaway	36	159	809	702	620	394	2,720
CLASS II TOTAL	382	1,021	2,526	2,164	2,944	3,539	12,576
GRAND TOTAL	715	2,144	4,600	3,504	4,565	5,249	20,777

ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1988

OFFENSE	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	5	1	6	54	9	63
Rape	23	0	23	190	2	192
Robbery	86	7	93	350	24	374
Aggravated Assault	320	34	354	1,362	196	1,558
Burglary	1,591	118	1,709	1,684	117	1,801
Theft	4,064	1,383	5,447	5,491	3,362	8,853
Motor Vehicle Theft	434	51	485	438	44	482
Arson	80	4	84	69	17	86
TOTAL CRIME INDEX	6,603	1,598	8,201	9,638	3,771	13,409
CLASS II OFFENSES						
Neg. Manslaughter	0	0	0	11	4	15
Other Assaults	1,073	321	1,394	5,760	931	6,691
Forgery	82	38	120	459	233	692
Fraud	31	29	60	1,166	1,034	2,200
Embezzlement	8	22	30	60	26	86
Stolen Property	138	11	149	286	41	327
Vandalism	1,467	174	1,641	1,393	197	1,590
Weapons	168	9	177	705	59	764
Prostitution	3	9	12	58	150	208
Other Sex Offenses	241	38	279	869	354	1,223
DRUG OFFENSES						
Sale-Narcotics	2	1	3	286	77	363
Sale-Marijuana	49	7	56	344	80	424
Sale-Synth Narc	3	1	4	67	21	88
Sale-Other	1	4	5	41	18	59
SALE SUBTOTAL	55	13	68	738	196	934
Poss-Narcotics	15	2	17	514	153	667
Poss-Marijuana	218	41	259	1,749	289	2,038
Poss-Synth Narc	10	3	13	117	23	140
Poss-Other	9	1	10	225	52	277
POSSESSION SUBTOTAL	252	47	299	2,605	517	3,122
DRUG OFFENSE TOTAL	307	60	367	3,343	713	4,056
GAMBLING OFFENSES						
Bookmaking	0	0	0	1	0	1
Numbers	0	0	0	2	0	2
Other	2	0	2	41	9	50
GAMBLING TOTAL	2	0	2	44	9	53
Family Offenses	68	54	122	242	42	284
DWI	221	41	262	12,370	1,773	14,143
Liquor Violations	1,314	656	1,970	5,671	1,262	6,933
Drunkenness	2	2	4	23	3	26
Disorderly Conduct	354	97	451	2,617	509	3,126
Vagrancy	5	7	12	63	14	77
All Other	1,622	491	2,113	16,554	4,561	21,115
Suspicion	15	3	18	58	11	69
Curfew-Loitering	458	215	673	0	0	0
Runaway	1,313	1,407	2,720	0	0	0
CLASS II TOTAL	8,892	3,684	12,576	51,752	11,926	63,678
GRAND TOTAL	15,495	5,282	20,777	61,390	15,697	77,087

8-15

**ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1988**

OFFENSE	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON- HISPANIC	TOTAL ETHNIC ORIGIN
Murder	1	5	0	0	6	0	6	6
Rape	15	7	0	1	23	0	23	23
Robbery	46	44	0	3	93	1	92	93
Aggravated Assault	257	91	3	3	354	19	335	354
Burglary	1,406	280	10	13	1,709	71	1,638	1,709
Theft	4,218	1,108	24	97	5,447	305	5,142	5,447
Motor Vehicle Theft	335	126	0	24	485	42	443	485
Arson	78	5	0	1	84	8	76	84
TOTAL CRIME INDEX	6,356	1,666	37	142	8,201	446	7,755	8,201
CLASS II OFFENSES								
Neg. Manslaughter	0	0	0	0	0	0	0	0
Other Assaults	1,036	345	6	7	1,394	66	1,328	1,394
Forgery	105	14	1	0	120	5	115	120
Fraud	51	8	0	1	60	1	59	60
Embezzlement	26	4	0	0	30	0	30	30
Stolen Property	99	44	3	3	149	10	139	149
Vandalism	1,469	160	7	5	1,641	46	1,595	1,641
Weapons	112	63	0	2	177	9	168	177
Prostitution	7	5	0	0	12	0	12	12
Other Sex Offenses	210	69	0	0	279	11	268	279
DRUG OFFENSES								
Sale-Narcotics	3	0	0	0	3	0	3	3
Sale-Marihuana	51	5	0	0	56	3	53	56
Sale-Synth Narc	4	0	0	0	4	2	2	4
Sale-Other	5	0	0	0	5	0	5	5
SALE SUBTOTAL	63	5	0	0	68	5	63	68
Poss-Narcotics	14	3	0	0	17	2	15	17
Poss-Marijuana	229	30	0	0	259	16	243	259
Poss-Synth Narc	12	1	0	0	13	0	13	13
Poss-Other	10	0	0	0	10	0	10	10
POSSESSION SUBTOTAL	265	34	0	0	299	18	281	299
DRUG OFFENSE TOTAL	328	39	0	0	367	23	344	367
GAMBLING OFFENSES								
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other	1	1	0	0	2	0	2	2
GAMBLING TOTAL	1	1	0	0	2	0	2	2
Family Offenses	111	9	0	2	122	2	120	122
DWI	254	4	4	0	262	10	252	262
Liquor Violations	1,926	34	3	7	1,970	66	1,904	1,970
Drunkenness	4	0	0	0	4	0	4	4
Disorderly Conduct	371	76	0	4	451	30	421	451
Vagrancy	9	3	0	0	12	0	12	12
All Other	1,786	306	14	7	2,113	95	2,018	2,113
Suspicion	17	1	0	0	18	2	16	18
Curfew-Loitering	622	45	1	5	673	108	565	673
Runaway	2,412	283	19	6	2,720	67	2,653	2,720
CLASS II TOTAL	10,956	1,513	58	49	12,576	551	12,025	12,576
GRAND TOTAL	17,312	3,179	95	191	20,777	997	19,780	20,777

TABLE 44
ARRESTS BY AGE
TYPE OF OFFENSE
1983

OFFENSE	<10	10-12	13-14	15	16	17	JUVENILE TOTAL
Murder	0	0	0	0	1	4	5
Rape	0	8	11	11	10	11	51
Robbery	0	9	9	10	36	37	101
Aggravated Assault	8	36	61	34	49	101	289
Burglary	44	174	350	243	284	319	1,414
Larceny(Theft)	216	562	1,061	633	657	756	3,885
Motor Vehicle Theft	0	14	86	81	82	78	341
Arson	33	18	18	9	10	6	94
TOTAL CRIME INDEX	301	821	1,596	1,021	1,129	1,312	6,180
Neg. Manslaughter	0	0	0	0	0	0	0
Other Assaults	40	115	193	120	165	154	787
Forgery	0	1	14	25	34	43	117
Fraud	0	0	6	6	9	27	48
Embezzlement	3	0	6	5	7	21	42
Stolen Property	1	9	27	19	18	28	102
Vandalism	149	221	273	142	188	168	1,141
Weapons	7	21	20	8	28	22	106
Prostitution	0	0	0	1	2	0	3
Other Sex Offenses	8	16	39	20	15	20	118
Sale-Narcotics	0	0	1	2	1	5	9
Sale-Marijuana	0	0	5	3	9	11	28
Sale-Synth Narc	0	0	0	0	0	2	2
Sale-Other	0	0	2	3	0	4	9
SALE SUBTOTAL	0	0	8	8	10	22	48
Poss-Narcotics	0	0	0	1	3	5	9
Poss-Marijuana	0	6	50	45	86	124	311
Poss-Synth Narc	0	2	0	4	4	4	14
Poss-Other	0	2	15	9	10	9	45
POSSESSION SUBTOTAL	0	10	65	59	103	142	379
DRUG OFFENSE TOTAL	0	10	73	67	113	164	427
Bookmaking	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0
Other	0	0	0	0	2	0	2
GAMBLING TOTAL	0	0	0	0	2	0	2
Family Offenses	1	0	1	4	5	8	19
DWI	2	2	2	14	82	169	271
Liquor Violations	2	2	48	89	232	303	676
Drunkenness	0	0	2	3	5	8	18
Disorderly Conduct	23	47	134	86	102	151	543
Vagrancy	0	0	0	2	2	5	9
All Other	94	174	396	295	382	428	1,769
Suspicion	2	2	5	2	5	7	23
Curfew-Loitering	11	37	150	134	123	148	603
Runaway	44	145	643	443	438	236	1,949
CLASS II OFFENSES	387	802	2,032	1,485	1,957	2,110	8,773
TOTAL	688	1,623	3,628	2,506	3,086	3,422	14,953

TABLE 45
ARRESTS BY STATUS AND SEX OF PERSONS ARRESTED
TYPE OF OFFENSE
1983

OFFENSE	JUVENILE MALE	JUVENILE FEMALE	TOTAL JUVENILE	ADULT MALE	ADULT FEMALE	TOTAL ADULT
Murder	4	1	5	66	9	75
Rape	49	2	51	171	0	171
Robbery	87	14	101	405	26	431
Aggravated Assault	255	34	289	1,277	139	1,416
Burglary	1,333	81	1,414	1,834	96	1,930
Larceny(Theft)	2,889	996	3,885	4,750	2,412	7,162
Motor Vehicle Theft	305	36	341	428	37	465
Arson	86	8	94	93	20	113
TOTAL CRIME INDEX	5,008	1,172	6,180	9,024	2,739	11,763
Neg. Manslaughter	0	0	0	14	3	17
Other Assaults	607	180	787	4,082	696	4,778
Forgery	73	44	117	397	240	637
Fraud	34	14	48	1,183	693	1,876
Embezzlement	28	14	42	74	25	99
Stolen Property	94	8	102	282	38	320
Vandalism	1,036	105	1,141	969	124	1,093
Weapons	100	6	106	629	51	680
Prostitution	1	2	3	50	174	224
Other Sex Offenses	102	16	118	454	13	467
Sale-Narcotics	7	2	9	70	12	82
Sale-Marijuana	26	2	28	372	75	447
Sale-Synth Narc	2	0	2	32	11	43
Sale-Other	5	4	9	32	12	44
SALE SUBTOTAL	40	8	48	506	110	616
Poss-Narcotics	3	6	9	122	24	146
Poss-Marijuana	268	43	311	1,613	179	1,792
Poss-Synth Narc	9	5	14	39	7	46
Poss-Other	39	6	45	116	33	149
POSSESSION SUBTOTAL	319	60	379	1,890	243	2,133
DRUG OFFENSE TOTAL	359	68	427	2,396	353	2,749
Bookmaking	0	0	0	1	0	1
Numbers	0	0	0	0	0	0
Other	2	0	2	90	8	98
GAMBLING TOTAL	2	0	2	91	8	99
Family Offenses	11	8	19	122	22	144
DWI	219	52	271	11,483	1,345	12,828
Liquor Violations	468	208	676	3,228	484	3,712
Drunkeness	16	2	18	368	33	401
Disorderly Conduct	446	97	543	3,362	545	3,907
Vagrancy	9	0	9	65	18	83
All Other	1,357	412	1,769	11,912	2,656	14,568
Suspicion	19	4	23	26	2	28
Curfew-Loitering	447	156	603	0	0	0
Runaway	815	1,134	1,949	0	0	0
CLASS II OFFENSES	6,243	2,530	8,773	41,187	7,523	48,710
TOTAL	11,251	3,702	14,953	50,211	10,262	60,473

TABLE 46
ARRESTS BY RACE AND OFFENSE TYPE
JUVENILE
1983

OFFENSE	WHITE	BLACK	INDIAN	ASIAN	TOTAL RACE	HISPANIC	NON HISPANIC	TOTAL ETHNIC ORIGIN
Murder	4	0	1	0	5	0	5	5
Rape	24	27	0	0	51	3	48	51
Robbery	66	35	0	0	101	5	96	101
Aggravated Assault	213	68	3	5	289	22	267	289
Burglary	1,139	260	12	3	1,414	65	1,349	1,414
Larceny(Theft)	2,960	868	16	41	3,885	210	3,675	3,885
Motor Vehicle Theft	294	46	1	0	341	12	329	341
Arson	89	5	0	0	94	11	83	94
TOTAL CRIME INDEX	4,789	1,309	33	49	6,180	328	5,852	6,180
Neg. Manslaughter	0	0	0	0	0	0	0	0
Other Assaults	627	153	1	6	787	32	755	787
Forgery	103	12	2	0	117	1	116	117
Fraud	42	6	0	0	48	4	44	48
Embezzlement	32	9	0	1	42	0	42	42
Stolen Property	86	15	1	0	102	2	100	102
Vandalism	1,052	83	4	2	1,141	47	1,094	1,141
Weapons	94	11	0	1	106	9	97	106
Prostitution	2	1	0	0	3	0	3	3
Other Sex Offenses	101	17	0	0	118	5	113	118
Sale-Narcotics	9	0	0	0	9	0	9	9
Sale-Marijuana	26	2	0	0	28	1	27	28
Sale-Synth Narc	2	0	0	0	2	0	2	2
Sale-Other	8	1	0	0	9	2	7	9
SALE SUBTOTAL	45	3	0	0	48	3	45	48
Poss-Narcotics	8	1	0	0	9	1	8	9
Poss-Marijuana	285	25	0	1	311	13	298	311
Poss-Synth Narc	14	0	0	0	14	1	13	14
Poss-Other	44	1	0	0	45	0	45	45
POSSESSION SUBTOTAL	351	27	0	1	379	15	364	379
DRUG OFFENSE TOTAL	396	30	0	1	427	18	409	427
Bookmaking	0	0	0	0	0	0	0	0
Numbers	0	0	0	0	0	0	0	0
Other	0	2	0	0	2	0	2	2
GAMBLING TOTAL	0	2	0	0	2	0	2	2
Family Offenses	17	2	0	0	19	1	18	19
DWI	267	4	0	0	271	7	264	271
Liquor Violations	661	11	1	3	676	17	659	676
Drunkenness	18	0	0	0	18	0	18	18
Disorderly Conduct	466	72	2	3	543	17	526	543
Vagrancy	5	4	0	0	9	2	7	9
All Other	1,570	184	8	7	1,769	91	1,678	1,769
Suspicion	18	5	0	0	23	0	23	23
Curfew-Loitering	554	40	1	8	603	39	564	603
Runaway	1,667	244	24	14	1,949	88	1,861	1,949
CLASS II OFFENSES	7,778	905	44	46	8,773	380	8,393	8,773
TOTAL	12,567	2,214	77	95	14,953	708	14,245	14,953

KANSAS JUVENILE JUSTICE INFORMATION SYSTEM - FISCAL YEAR

DOCUMENTS RECEIVED	85	86	87	88	89	90	91	92	93				TOTAL
L.E. JUVENILE REPORT	16695	19137	18412	19365	18544	17207	17048	18232	11,189				
SECURE CUSTODY / JAIL	4029	4400	4286	4599	4800	5530	5313	5318	5,368				
FINGERPRINT CARDS	2278	1913	2088	1815	1803	1780	1690	3171	2,438				
CINC COURT REPORTS	2227	3372	4245	4056	5262	5917	6104	6372	6,092				
PROSECUTOR REPORTS	9042	12174	12247	11389	12151	112139	12666	14484	13,710				
OFFENDER COURT REPORTS	6276	8381	9687	9287	10761	11029	11638	11857	10,811				
TOTAL	40,547	49,377	50,965	50,511	53,321	53,602	54,459	59,434	49,608				
PRODUCTION RECORD													
MASTER FILE ADDITIONS							12,998	10,198	5,825				
ARREST FILE							16,264	12,452	5,924				
JAIL FILE							6,972	6,031	5,391				
PROSECUTOR OFFENDER							7,000	7,572	3,650				
PROSECUTOR CNIC							3,361	1,756	1,295				
COURT OFFENDER							9,828	9,626	3,582				
COURT CNIC							3,489	496	*				
SRS REPORTS									**				
EMERGENCY SHELTERS									**				
CJ RECORD CHECKS "HITS"							3,098	3,925	4,642				
APPLICANT CHECK "HITS"							1,753	1,804	1,962				
NCJ RECORD CHECK "HITS"							1,113	1,868	1,371				
TOTAL RECORD "HITS"							4,211	5,793	6,013				

SENATE COMMITTEE ON JUDICIARY

October 28-29, 1993

SRS AGENDA

3:45 - Donna Whiteman, Secretary, Department of Social and Rehabilitation Services

Thomas H., former student at the Youth Center at Topeka, and Kapelle S., current student at the Youth Center at Topeka, are both available.

They do not have prepared testimony, but can speak briefly about their experience and respond to questions.

Carrol Mills, Chief Psychologist, Youth Center at Topeka

Bill Sherlock, Substance Abuse Program Coordinator, Youth Center at Beloit

Steve Crockett, Youth Services Director, Youth Center at Larned (by phone)

Mike Driscoll, Chief Social Worker, Youth Center at Atchison

Senate Judiciary
10/28/93
attachment 9-1

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Judiciary Committee
October 28-29, 1993

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Youth Center Mission Statement

The mission of the Kansas Youth Centers is to provide juvenile correctional programs with a blended mission of care, habilitation, treatment and public safety, which assures:

- o Protection of the safety of youth, staff and the public.
- o Youth come to understand the predictable connections between behavior and consequences and that they can control what happens to them by controlling their behavior
- o Realistic treatment and programming for youth and their families
- o Protection of the legal and civil rights of youth
- o Spiritual, moral, physical, intellectual and social needs of youth are met
- o Constructive training aimed at habilitation and reestablishment of youth in society

Mr. Chairman, members of the committee, I appreciate this opportunity to appear before you today to discuss matters related to the Department's role and responsibility for youth who have committed juvenile offenses.

This is a serious issue often complicated by strongly held and sometimes conflicting beliefs and a lack of easy answers. To establish a frame of reference for this discussion it should be remembered that while a minority of juvenile offenders cause serious and occasionally fatal problems for their communities, the majority make a successful transition from youthful offender to functioning, contributing members of society. It is those who do not make the transition or who pose a serious threat to us all before making the transition that require our most thoughtful responses and concentrated use of limited resources.

The Department is one of many players working with youth adjudicated as juvenile offenders. Courts have a number of dispositional alternatives including placing the juvenile offender on probation under conditions such as restitution, fines, counseling or mediation, house arrest, substance abuse evaluation, and treatment. A court may place the juvenile offender in the custody of a parent, other suitable person, a youth residential facility or the Secretary of SRS, with any of the options previously listed.

Court Services staff provide pre-dispositional reports to the court and probation supervision. Community Corrections, in some areas of the state, provides intensive supervision services, house arrest, counseling and surveillance.

The development of appropriate response to juvenile offenders, particularly constructive response to violent and repeat offenders, is a challenge for all of us, and is likely not to be solved by the blaming posture we sometimes see and shuffling of programs and services from one state agency to another. Management of juvenile behavior is much more difficult and responses more complex than in years past. Changing patterns of family life and support and the growth of gangs are indications of the necessity of a renewed response.

SRS clearly views public safety as an essential priority. To be only concerned with a limited, short term view of public safety and punishment, as some would suggest, does not deal with the reality that juvenile offenders spend most of their time with family in their community, and when incarcerated will return to family and community. We must teach and support behavioral change, and prepare incarcerated offenders for return home.

The current Juvenile Offenders Code which was subject to comprehensive revision in the early 1980's, following several years of review and study, recognizes the importance of a blended public safety and habilitation response to juvenile offenders. The code also makes provision for serious juvenile offenders to be treated as adults by our courts. I believe the Code and the philosophy of juvenile justice set forth is correct at its core.

Thousands of youth are arrested for the commission of offenses but only hundreds are in state custody or directly placed in a state youth center. Most youth succeed through community interventions. The youth in state custody should be those for whom all else has failed, who are repeat offenders, or who have committed serious crimes. State custody should be the last resort. This is not always so, however. Youth are placed in state custody for misdemeanor first offenses, and often for reasons more related to the behavioral and developmental problems the youth is experiencing than to the severity level of the offense.

When the court determines the state, rather than the parents, should be the custodian of a youth, the Department has several options including in-home services; community based services such as counseling, day reporting, house arrest, intensive supervision; or out-of-home placement in family foster care, residential care, or a state youth center.

In the adult criminal justice system there is a struggle to balance the goals of rehabilitation and treatment v. punishment. For youth offenders this is made more complicated because adolescents are in a developmental process of moving from childhood dependence to adult independence, a difficult transition under the best of circumstances.

In designing any program or continuum of programs, a key element is defining which youth will be best served in which programs or placements. Which youth can be served in the family, which will require more structure or out-of-home placement, and which must be served in the most restrictive setting, a youth center. Most of the time correct decisions will be made, but none of us can with any degree of certainty, predict human behavior.

We have spent considerable time over the past several years examining our programs and practices. The Family Agenda, developed by the Department in the summer of 1991 and adopted in January of 1992 set a course which we have continued to follow. We have continued work on defining the mission and goals of our programs and fine tuning and revising the Family Agenda recommendations as a part of this process. We need to increase our effort to develop community programs for minor and first time offenders and aftercare programs for youth returning to the community. In your packet of handouts you will find a report on the day reporting centers.

An equally important part of our response to the youthful offender problem are the Youth Centers--who should be there, how long should they stay, what treatment should they receive. Youth Centers are an essential element in the continuum of care for juvenile offenders. But, Youth Center incarceration is over used. While the number of juvenile offenders placed in SRS custody increased 9 % between 1985-1990, the number of youth placed at state youth centers increase by 94 %. The number of admissions of youth who have committed only minor offenses seriously detracts from our ability to provide the level and length of care needed by the most serious offenders. For the Department to fulfill its dual responsibility for the care, treatment, education and training of youth and its responsibility for public safety we must reserve our Youth Centers for the repeat and serious offenders.

Within the Department we have taken steps to reduce the number of admissions of lower level offenders. We are in the process of implementing community staffing teams which bring together key actors in the community to jointly plan and deliver services in the community for most youth. A Youth Center placement screening guide is also being implemented to provide objective criteria, base on offense history, to assure the most serious juvenile offenders are placed at state youth centers where they receive the services they need to successfully return to the community. Upon admission the youth are further assessed to verify the necessity of continued youth center placement. When the youth is not a repeat offender and has not committed serious or violent crimes they are referred back to the community staffing team to develop a less restrictive placement. Limiting the number of admissions of minor and non-violent offenders is critical to increasing the length of stay for those youth who do pose a serious threat to the community.

I do believe some revision of the code is necessary in the interest of public safety and habilitation of juvenile offenders. I will propose K.S.A. 38-1663 be amended to limit juvenile offenders placed in the custody of the Secretary or committed to a state youth center to those adjudicated as having committed an act which, if done by a person 18 years of age or over would constitute a felony as defined by the Kansas criminal code. Courts would be required to establish a pre-disposition team of community agencies to recommend to the court community alternatives to state intervention and services. Currently the Department may place any adjudicated juvenile offender in its custody, 13 years of age or older, in a youth center or the court may directly commit a youth 13 or older who has had a previous adjudication or who has committed an A, B, or C type felony offense. Over half of those in Youth Centers are there on misdemeanor offenses. Forty three percent placed by the Department and fifty seven percent direct court commitments.

The Department will propose a new section be added to the Juvenile Offenders Code which specifically authorizes the Secretary to release information about a juvenile offender for the purpose of protecting the juvenile offender and the general public. Authorization is specifically given to release of an offender's name, likeness and other information which will assist in the protection and apprehension of an offender who has escaped custody.

Further, the Department will propose the amend K.S.A. 1991 Supp. 21-3413, to: (1) make battery against a state youth center officer or employee engaged in the performance of such officer's duty a class A person misdemeanor; (2) make battery against a state youth center officer or employee by a person confined in such a youth center, while such officer or employee is engaged in the performance of such officer's or employee's duty a severity level 7, person felony; and (3) define "State youth center officer or employee" as any officer or employee of the Kansas Department of Social and Rehabilitation Services or any independent contractor, or any employee of such contractor, working at a state youth center, as defined in K.S.A. 38-1602.

An amendment to K.S.A. 76-2201, K.S.A. 76-2210, and K.S.A. 76-2211 is proposed to change the affected statutes to make them gender-neutral. The language change will permit, but not require, placement of both genders at the Youth Center at Beloit. The Department is currently studying the most effective administrative use at the Youth Center at Beloit.

All youth must eventually return to the community therefore release planning begins at the time of admission with consideration of learning or adjustments which should occur, and the resources available for aftercare. Standard practice involves an educational and behavioral assessment and the development of an education and treatment plan within the first 30 days of admission. This assessment is repeated periodically. In addition to education and treatment activities each youth is expected to progress through levels or steps of a behavior management system. This involves rewards and privileges for progress toward improved behavior and attitude. This involves rewards and privileges for progress toward improved behavior and attitude. Youth are sometimes released prior to the completion of program if admission exceed planned releases at a given point in time. Each youth center has a process of determining which youth can be release early and which present too great a risk to themselves or the community. We believe that the process is sound but we also believe there is value in re-reviewing policy and practice. We have arranged for the juvenile division of the American Correctional Association to assist in this process. We are seeking outside review by the American Correctional Association because they are a national standard setting and accrediting organization for correctional agencies and facilities. They will provide a national perspective on the question of appropriate policy and practice in the management of juvenile offenders. The ACA visit is scheduled Nov. 9-10, 1993.

Release planning is done with the local SRS office and required notices are provided to the court and county/district attorneys. The choices for aftercare normally involve return to the family, but youth are sometimes placed in foster family homes, residential facilities or specialized treatment facilities, such as substance abuse program. Some are helped with independent living plans. When release time approaches a plan is developed with individually tailored expectations around expected behaviors, school and work.

Kansas is not unique in its struggle with the problems of juvenile offenders. Colorado has opted to remove the most violent offenders from the juvenile system by creating a juvenile offender system within the state's adult prison system. Juveniles 14 through 17 charged with a felony involving violence will be tried in adult court and if convicted, diverted to a new system for two to five year prison terms. Youth incarcerated in the new juvenile offender system could be transferred to an adult prison for failure to adhere to regulations in the youth system.

Colorado also approved outlawing possession of handguns by juveniles with few exceptions, authorized the release of names of youth and their parents for offenders over 14 years of age, required the attendance of parents or guardians at court hearings, and gave counties powers to impose curfews and penalties. Please see the document entitled, "Comparison of Colorado Juvenile Crime Initiatives with Kansas Juvenile Offender Programs" in your packet.

"Boot camps" have been adopted in a number of places. Boot camps usually accept young first-time offenders who have not committed previous adult offenses, violent crimes, or sex offenses. Boot camps use military-style techniques of regimentation and discipline intended to educate youth and increase their self esteem. Participants must also be in good health to withstand rigorous physical demands. Boot camps typically are of shorter duration than traditional programs and do tend to reduce center populations somewhat. Such programs, though brief, are intensive and are more costly to operate.

Researchers with the Office of Juvenile Justice and Delinquency Prevention (OJJDP) have found in three federally funded "model" juvenile boot camps, the programs have experienced a high attrition rate due to faked illness, escapes, and drop-outs from aftercare programs. Youth who stay with the program, however, seem to enjoy the structure and the physical challenge and have a fairly positive attitude. They have become a popular alternative to traditional rehabilitative programs but their long term cost savings and effect on recidivism rates are not yet determined, according to a report by the US. General Accounting Office (GAO). A central issue becomes the ability to determine which youths will not respond or will have a negative response.

We urge your assistance in helping the Department provide a wide range of interventions to Kansas communities in serving juvenile offenders and their families.

In your packet we have included:

- A. Comparison of Colorado Juvenile Crime Initiatives with Kansas Juvenile Offender Programs
- B. Dispositional Alternatives
- C. Measure of Juvenile Arrest and Juvenile Incarceration Rates
- D. Youth Center Philosophy and Supporting Documents
- E. Review of Kansas Juvenile Offender Policy and Practice Conducted by the American Correctional Association (ACA)
- F. A Family Agenda Briefing Paper
- G. Community Corrections Summary
- H. Attendant Care Contracts
- I. A Progress Report on the Implementation of Day Reporting Programs

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9-6

COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS

page 1

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
1. I propose that we revise our state laws to make it illegal for a juvenile to possess a handgun and that we enforce this new law with immediate tough sanctions.	Creates a status offense of juvenile possession of a handgun in Colorado, except in 4 very specific circumstances. Allegation of violation of this law creates a rebuttable presumption that the child is a danger to self or the community, resulting in automatic detention for a minimum of 5 days and ineligibility for in-home pre-trial services. Trial must be held within 60 days of arrest if the child remains in detention. Sanctions include 5 to 45 days in detention or a 60 day boot camp, followed by parole.	There is no such provision within the Kansas Juvenile Code at this time. It is, however a class A misdemeanor to transfer a gun with a barrel length of less than 12 inches to a juvenile. It is also illegal for anyone to possess a handgun on school grounds, a class B misdemeanor which escalates to a class D felony if the individual refuses to leave the school grounds.

**COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS**

page 2

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
2. I propose the creation of a new Colorado reformatory system, called a Youthful Offender System, as an interim step of incarceration between the present juvenile system and the adult corrections system. Juveniles between the ages of 14 and 18 committing crimes of violence, crimes involving guns, and gang-related criminal activity would be incarcerated in this new system.	Youthful Offender System (boot camp model) for 14 to 18 year old offenders convicted of certain serious or violent felonies. This program is part of the State Department of Corrections (adult corrections authority. Increased discretion for prosecutors to charge juveniles in adult court.	Kansas has no similar adult corrections program for juveniles. Kansas procedures for trying juveniles as adults are established in State law, including criteria for transfer out of the juvenile court system (age 14 or older and accused of a class A or B felony, or age 16 or over and accused of a crime with any previous adjudication, or age 16 or over and two prior felony convictions.) This procedure is based on the discretion of the judiciary to react to specific acts by specific juveniles. The Labette County boot camp program is used for Youthful offenders, including juveniles convicted as adults.
3. I propose that the Colorado Organized Crime Control Act be used to prosecute gang activity.	The Colorado Governor is urging prosecutors to use the Colorado Organized Crime Control Act to prosecute gang activity.	Kansas juvenile felon provisions can be used to charge juveniles at least 14 years of age in adult court if accused of a class A or B felony.

COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS

page 3

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
4. I propose several changes to the court process to allow for the expedited prosecution and sentencing of juvenile offenders.	Added a district court judge to handle increased number of violent acts by juveniles.	The Kansas judiciary perennially includes additional judges in its budget request. Additional judicial staff may be necessary to respond to increasing instances of violence in our society. The time frames included for processing juvenile cases, already contained in the Juvenile Code are relatively short.

**COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS**

page 4

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
5. I propose that we expand the ability of our juvenile incarceration system to sanction offenders so that juveniles face immediate consequences for their offenses.	Expands sanctions available to apply to juvenile offenders including lowering age for trial as an adult to 14 for certain crimes, boot camp (as part of sentences ranging from 1 to 5 years to the adult department of corrections with 1 year mandatory parole,) judgement for costs and fines, and a juvenile 60 day boot camp program, along with community reintegration services including job training, education, electronic monitoring, and placement in a community residential facility. Opens records of juveniles charged with a class 1, 2, 3, or 4 felony. Requires parents/guardians to be present at any juvenile proceeding concerning their child/ren. Allows counties to impose curfews, restrain and punish for loitering and defacing property.	Kansas juvenile code provides due process before any correction or punishment programs. The focus of the Kansas Juvenile Offender Code is to prepare the child to function successfully as an adult. Similar programs, except the boot camp, are available through community corrections and court services in Kansas. Records regarding juveniles under the age of 16 are not available to the public in Kansas. Youth 16 and older are treated identically to adults in regard to the public availability of information regarding alleged criminal behavior.

**COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS**

page 5

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
6. I propose revisions to state law to make it illegal for an adult to furnish a handgun to a juvenile; to strengthen our present law on concealed weapons; and to license firearms dealers at the state level.	Unlawfully providing or permitting a juvenile to possess a handgun is a class 4 felony in Colorado. Includes parents who knows and fails to prevent the possession.	Kansas has provisions which allow sanctions against adults who use a juvenile to commit a crime, contributing to a child's misconduct. It is illegal for an adult to provide a gun with a barrel of less than 12 inches to anyone less than 18 years old (see proposal number 1.)
7. I propose that we strengthen our protections for the confidentiality of witnesses to prevent witness intimidation.		
8. I propose that we work with the FBI and other law enforcement agencies to strengthen existing gang information networks and that we explore using interstate compacts to prevent criminals, particularly those involved with gang activity, from moving across state lines anonymously.		There are interstate and national compacts to track and control gang activity. Various Kansas law enforcement agencies participate in these activities. SRS currently participates in the Interstate Compact on Juveniles.

9-11

**COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS**

page 6

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
9. I propose enactment of a law to allow for the revocation of a driver's license or to prohibit a juvenile from obtaining a driver's license upon the commission of certain juvenile offenses.		This is currently an option for selected drug and alcohol offenses in Kansas.
10. I propose the state assist local law enforcement with their immediate needs to ensure public safety through targeting federal funds and providing equipment where possible.		
11. I propose the organization of a statewide effort, called The Colorado Partnership Against Violence, to help local communities organize themselves and take back their neighborhoods.		Kansas has had a Governor's Committee on Crime Prevention since 1982. This committee has actively promoted joint police/citizen initiatives to combat and prevent crime. These type of programs are increasing throughout the State and have been routinely provided technical assistance by the Kansas Bureau of Investigation.

**COMPARISON OF COLORADO JUVENILE CRIME INITIATIVES
WITH KANSAS JUVENILE OFFENDER PROGRAMS**

page 7

Colorado Governor's Proposal	New Colorado Initiative	Kansas Program
12. I propose that our state government commit to hiring at-risk, young people in work programs to teach them skills to help them get long term jobs. I will call on business also to provide jobs and training for at risk young adults.		Kansas community corrections programs offer some job readiness and training opportunities. JTPA also targets offenders as a target population for provision of employment assistance.
13. I propose that we develop a system to evaluate and coordinate current prevention and intervention programs, and to provide a clearinghouse of information on these programs.		As a State agency, we already do some evaluation of programs which we use. This function could certainly be strengthened.
14. I propose that we target specific community based, prevention and intervention programs by working with the private sector and federal government to fund programs that provide services such as mentoring, job skill development, substance abuse prevention, transition for juveniles back into the community, and early childhood development.		Kansas currently includes each of these activities in our treatment strategies for youth committed to our custody with the exception of mentoring.

9-13

DISPOSITIONAL ALTERNATIVES FOR JUVENILES

AGE	DISPOSITIONAL ALTERNATIVES
9 & Under	-Juvenile Offenders Code does not apply; Child in Need Of Care Dispositions are available if adjudicated CINC
All 10 & Older	-Probation with conditions -Restitution mandatory unless the court finds compelling circumstances which would render it unworkable in which case charitable or social services may be ordered -Custody to parent with conditions -Restitution mandatory unless the court finds compelling circumstances which would render it unworkable in which case charitable or social services may be ordered -Custody to youth residential center with conditions -Restitution, charitable or social services may be ordered -Custody to Secretary of SRS -Restitution, charitable or social services may be ordered -House arrest in court administered program -Juvenile and parents to counseling -Juvenile and parents to mediation -Restitution, charitable or social services -Fine of not more than \$250 for each offense -Alcohol and Drug Evaluation by community based alcohol and drug safety action program and pay the fee unless waived by the court -Court ordered child support by parents
All 13 & Older	-Court Commit to state youth center, if -Previous adjudication as Juvenile Offender, or -Adjudicated for A, B or C Felony type offense
All 14 & older	-Revoke driving privilege when offense involved possession, use or abuse of any alcoholic beverage or controlled substance
14 & 15	-Certify to criminal prosecution on alleged A or B Felony based on criteria in KSA 38-1636(e) -Seriousness of offense and whether the protection of the community requires prosecution as an adult; -Whether offense was committed in aggressive, violent, premeditated or willful manner; -Person or property offense with greater weight to person offenses -Number of alleged offenses pending against the offender; -History of the offender including offense and violence;

-Sophistication or maturity of offender as determined by the home, environment, emotional attitude, pattern of living or desire to be treated as an adult;

-Whether there are facilities or programs available to rehabilitate during the jurisdiction of the court;

-Whether the interests of the juvenile or the community would be better served by criminal prosecution.

-Commit as Juvenile Felon to the Secretary of Corrections, if convicted of an A or B Felony, who may place in the Youth Center at Beloit or the Youth Center at Topeka until up to age 21

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-Certify to criminal prosecution based on criteria in KSA 38-1636(e)

-Seriousness of offense and whether the protection of the community requires prosecution as an adult;

-Whether offense was committed in aggressive, violent, premeditated or willful manner;

-Person or property offense with greater weight to person offenses

-Number of alleged offenses pending against the offender;

-History of the offender including offense and violence;

-Sophistication or maturity of offender as determined by the home, environment, emotional attitude, pattern of living or desire to be treated as an adult;

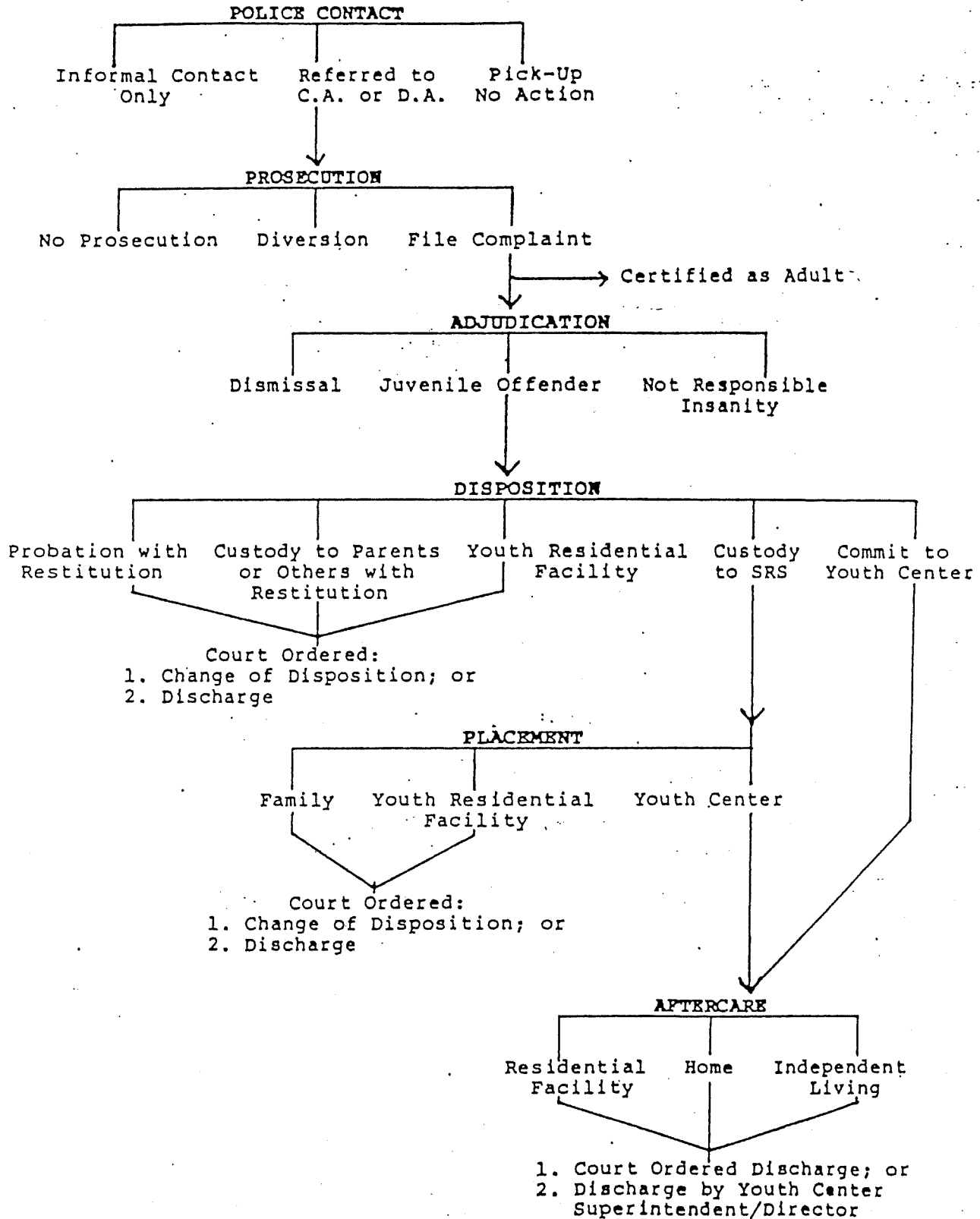
-Whether there are facilities or programs available to rehabilitate during the jurisdiction of the court;

-Whether the interests of the juvenile or the community would be better served by criminal prosecution.

KANSAS MANUAL OF YOUTH SERVICES

Volume II

Juvenile Offender Programs



CONTINUUM OF CARE FOR JUVENILE OFFENDERS IN SRS CUSTODY

The Department of Social and Rehabilitation Services (SRS) is responsible for providing services for juvenile offenders who the Court has determined need to be removed from the custody of their parents and placed in the custody of the State for rehabilitation services, treatment, incapacitation, or punishment.

The juvenile offenders placed in the custody of SRS are between the ages of 10 and 17 and can remain in custody until the age of 21. While in the custody of SRS, there are a number of services that an offender may be placed in. They include:

Family Placement

Drug & Alcohol Treatment

Mental Health Services

Educational/Vocational Training

Independent Living

Foster Care/Youth Residential Facilities

Therapeutic Foster Homes

Group Homes/Levels III-VI

Comprehensive Screening Unit

Day Reporting Centers (DRC)

Youth Centers

Upon release from the Youth Center, each of the above services are available until final discharge.

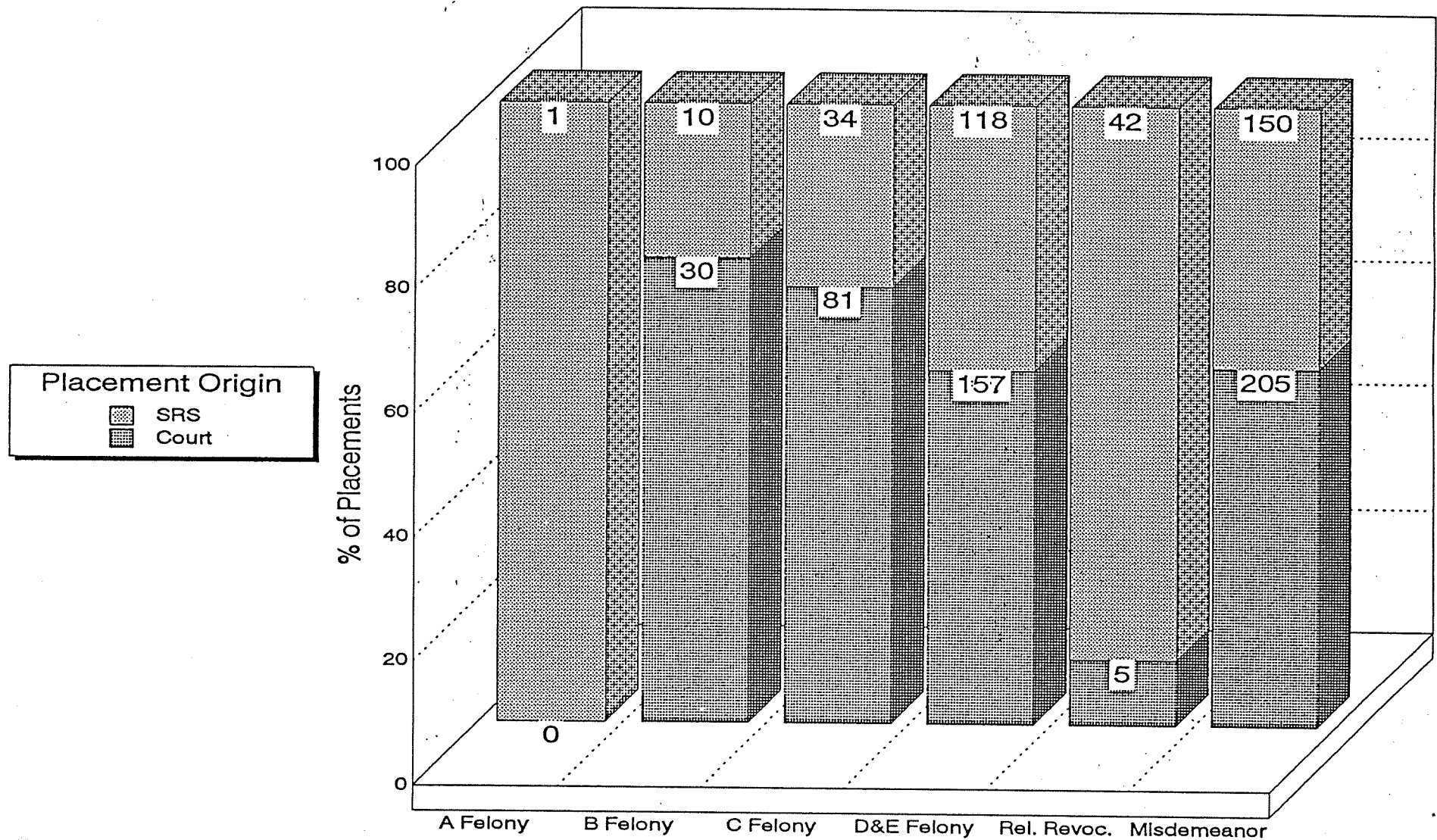
Each juvenile offender is assigned to a caseworker who may be able to access a variety of services such as referral to a Community Corrections Intensive Supervision Program (where available), contracted Court Services Transitional care (where available), or other resources in the community. In most areas, caseworkers have various other duties beyond working with juvenile offenders and therefore, the level of supervision may be lacking.

SRS is one of three agencies that provide services to juvenile offenders. Court Services provides probation supervision to certain juvenile offenders and a variety of other tasks including pre-dispositional reports on the juvenile offender for the Court to consider in disposition. Community Corrections, in a few areas, provides Intensive Supervision Program (ISP) and various other offender type services like home confinement, counseling and surveillance.

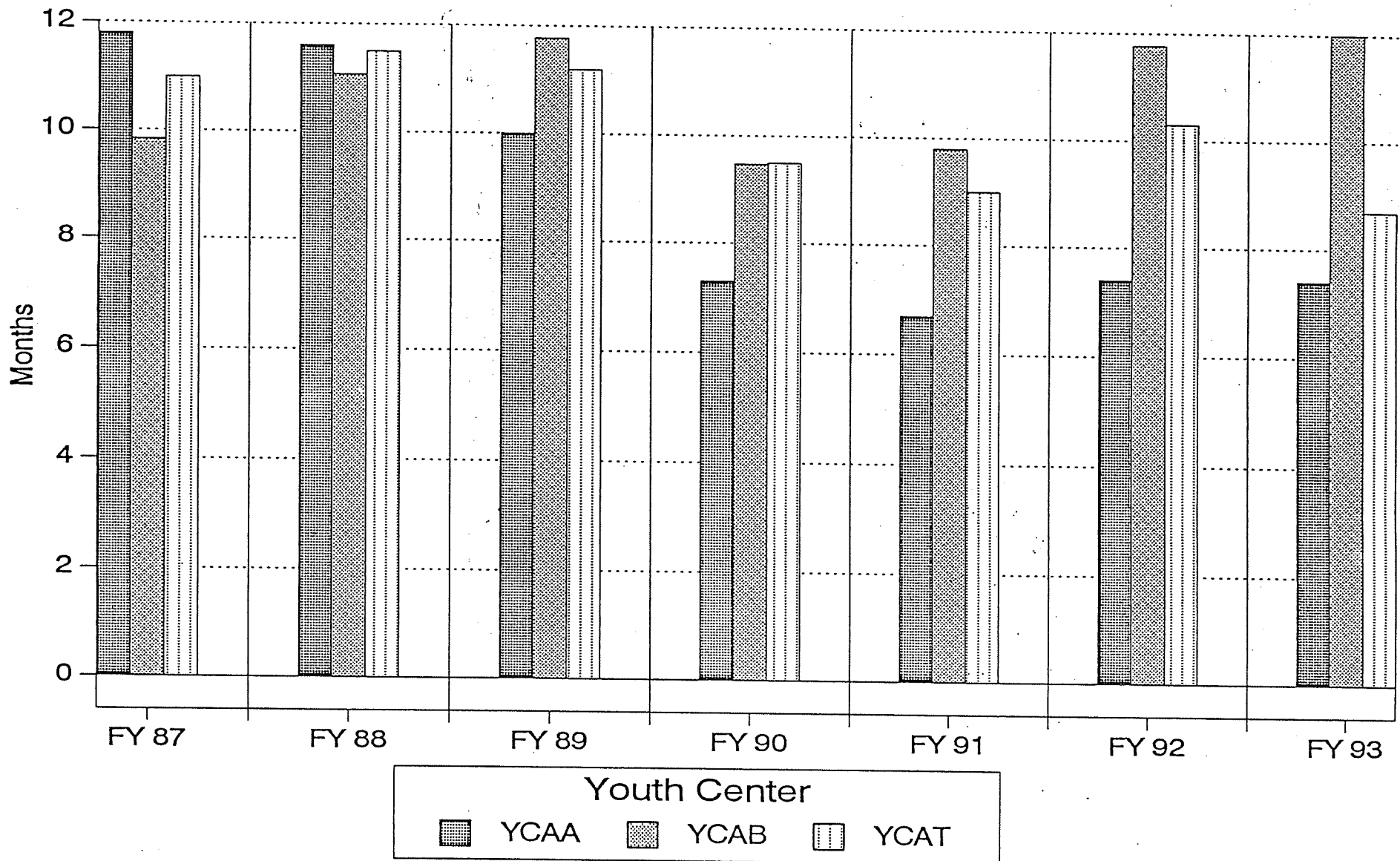
While these other services are considered "field services" or probationary in nature, SRS programs are part of the social service delivery system in Kansas. A youth can be involved in a variety of the services listed above at any given time, depending on the needs of the youth and the available services.

Primary Offense at Placement FY 93

9-18



Average Length of Stay at Youth Centers



Court Directed Admissions
July 1992 through June 1993
FY 93

Judicial District	A Felony	B Felony	C Felony	D Felony	E Felony	All Misdemeanors	TOTAL	TOTAL A-B-C FELONIES
#1	—		1	1		1	3	1
#2	—	0	0	0	0	0	0	0
#3	—	4	2	6	2	10	24	6
#4	—			0		1	1	0
#5	—	1		1	3	5	10	1
#6	—	1	1			3	5	2
#7	—		2		1	3	6	2
#8	—		9	8	8	17	42	9
#9	—			1	1	1	3	0
#10	—	5	10	8	8	43	74	15
#11	—	2		5	10	7	24	2
#12	—					1	1	0
#13	—	2	3			5	10	5
#14	—		1	2	4	5	12	1
#15	—						0	0
#16	—			1	4	6	11	0
#17	—					1	1	0
#18	—	2	15	7	5	18	47	17
#19	—			1		3	4	0
#20	—		2	2	3	5	12	2
#21	—		1	1	1	2	5	1
#22	—				2	2	4	0
#23	—				1	2	3	0
#24	—					2	2	0
#25	—	2	4	4	5	7	22	6
#26	—					3	3	0
#27	—					1	1	0
#28	—	2	3	5			10	5
#29	—	8	23	14	30	45	120	31
#30	—		2	2	1	5	10	2
#31	—				1	1	2	0
TOTAL	0	29	79	69	90	205	472	108

DATA\123\YCCTAD93 YAS/IFS Unit

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YOUTH CENTER ADMISSIONS
July 1992 through June 1993
FY 93

	A Felony	B Felony	C Felony	D & E Felony	Release Revocation	Misdemeanor	TOTAL	% OF TOTAL
TOTALS FOR ALL FACILITIES								
Court	0	30	81	157	5	205	478	56.70%
SRS	1	10	34	118	42	160	365	43.30%
Totals	1	40	115	275	47	365	843	
YCAA								
Court	0	3	17	39	2	45	106	51.71%
SRS	0	3	6	26	15	49	99	48.29%
Totals	0	6	23	65	17	94	205	
YCAB								
Court	0	0	6	15	0	17	38	41.30%
SRS	0	1	6	8	8	31	54	58.70%
Totals	0	1	12	23	8	48	92	
YCAL								
Court	0	3	9	18	3	30	63	50.81%
SRS	0	0	5	31	2	23	61	49.19%
Totals	0	3	14	49	5	53	124	
YCAT								
Court	0	24	49	85	0	113	271	64.22%
SRS	1	6	17	53	17	57	151	35.78%
Totals	1	30	66	138	17	170	422	
WYANDOTTE COUNTY								
Court	0	8	23	44	0	45	120	85.71%
SRS	0	0	0	4	5	11	20	14.29%
Totals	0	8	23	48	5	56	140	
SEDGWICK COUNTY								
Court	0	7	18	37	14	72	148	75.90%
SRS	0	2	15	12	0	18	47	24.10%
Totals	0	9	33	49	14	90	195	

DATA\123\YC93ADMIS YAS/IFS Unit

9-21

MEASURE OF JUVENILE ARREST AND
JUVENILE INCARCERATION RATES

The 1993 Kansas Kids Count Data Book includes two measures of social behavior and social control. These are the juvenile arrest rates and the juvenile incarceration rates.

Juvenile arrest rates are based on data from the KBI. The juvenile arrest rates compare 1990 data to 1991 data and indicate the number of arrests increased by approximately 7% in this year.

Juvenile incarceration rates are based on a one-day census of juveniles age 12-18 in SRS custody and placed in youth centers and detention centers. The 1993 Data Book compares 1989 to 1991 and found an increase in the incarceration rate over the two-year period. The change in the juvenile incarceration rate should be used with caution, as the data used to measure performance changed from one time period to the other.

The 1989 analysis indicated Kansas incarcerated 227.5 per 100,000 children under 18. This compares to 231.8 per 100,000 children in 1991. The 1989 data was compared to all other states in a national Kids Count. Kansas was found to incarcerate more children per 100,000 than 44 other states. While caution should be used in interpreting this information due to varying definitions from state-to-state, it is clear Kansas incarcerates more juveniles than most other states.

Part of what fuels the incarceration rate is the number of beds available. Kansas currently has 463 youth center beds and 158 detention beds. Fifty-four (54) additional detention center beds are under construction and will bring the total to 212 statewide.

The 1993 Data Book analysis of juvenile arrest rates and juvenile incarceration rates are attached.

Juvenile Arrest Rates

Children in Kansas were arrested at the rate of 3,527 per 100,000, or 3.5 per 100, in 1991. The number of arrests grew between 1990 and 1991 by nearly 7%.

Only 18 of 105 counties have arrest rates higher than the state as a whole. Two counties — Finney and Saline — have rates twice as high as the state rate.

Measuring the juvenile arrest rate is one indicator in the category entitled "Social Behavior and Social Control." This category is designed to measure outcomes for children as they respond to society's rules and laws. All arrests, including status offenses, are included in this measurement.

COUNTY	TOTAL POPULATION UNDER 18	1990 ARREST RATE	1990 DECILE RANK	1991 ARREST RATE	1991 DECILE RANK	RATE CHANGE 1990-91
ALLEN	3984.00	1832.33	7	2635.54	7	43.84
ANDERSON	2062.00	1260.91	5	1115.42	5	-11.54
ATCHISON	4677.00	3078.90	8	3335.47	8	8.33
BARBER	1569.00	0.00	1	127.47	3	.
BARTON	7925.00	3280.76	8	3394.32	9	3.46
BOURBON	3877.00	3275.73	8	1857.11	6	-43.31
BROWN	3059.00	1699.90	6	1438.38	6	-15.38
BUTLER	14607.00	1492.44	6	2307.11	7	54.59
CHASE	754.00	1856.76	7	2785.15	8	50.00
CHAUTAUQUA	1033.00	580.83	4	3097.77	8	433.33
CHEROKEE	5641.00	1737.28	6	2162.74	7	24.49
CHEYENNE	782.00	0.00	1	0.00	1	0.00
CLARK	606.00	0.00	1	0.00	1	0.00
CLAY	2340.00	256.41	3	683.76	4	166.67
CLOUD	2523.00	2814.11	8	3210.46	8	14.08
COFFEY	2288.00	830.42	4	1005.24	5	21.05
COMANCHE	564.00	0.00	1	0.00	1	0.00
COWLEY	9786.00	4986.72	10	4956.06	10	-.61
CRAWFORD	8284.00	1629.65	6	2172.86	7	33.33
DECATUR	1038.00	192.68	3	0.00	1	-100.00
DICKINSON	4945.00	4084.93	9	3882.71	9	-4.95
DONIPHAN	2119.00	330.34	3	849.46	5	157.14
DOUGLAS	16728.00	3240.08	8	3108.56	8	-4.06
EDWARDS	947.00	316.79	3	316.79	3	0.00
ELK	717.00	278.94	3	0.00	1	-100.00
ELLIS	6731.00	3595.31	9	3090.18	8	-14.05
ELLSWORTH	1559.00	962.16	5	898.01	5	-6.67
FINNEY	11302.00	7600.42	10	9741.64	10	28.17
FORD	7955.00	4010.06	9	4437.46	9	10.66
FRANKLIN	6159.00	3507.06	9	3799.32	9	8.33
GEARY	8996.00	6458.43	10	4690.97	10	-27.37
GOVE	869.00	345.22	4	460.30	4	33.33
GRAHAM	927.00	2804.75	7	1941.75	6	-30.77
GRANT	2468.00	486.22	4	931.93	5	91.67
GRAY	1728.00	289.35	3	0.00	1	-100.00
GREELEY	547.00	0.00	1	0.00	1	0.00

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COUNTY	TOTAL POPULATION UNDER 18	1990 ARREST RATE	1990 DECILE RANK	1991 ARREST RATE	1991 DECILE RANK	ARREST RATE CHANGE 1990-91
GREENWOOD	1866.00	107.18	2	0.00	1	-100.00
HAMILTON	616.00	0.00	1	649.35	4	.
HARPER	1806.00	2104.10	7	2713.18	8	28.95
HARVEY	8170.00	1676.87	6	2203.18	7	31.39
HASKELL	1265.00	0.00	1	158.10	3	.
HODGEMAN	611.00	0.00	1	0.00	1	0.00
JACKSON	3302.00	151.42	2	211.99	3	40.00
JEFFERSON	4362.00	710.68	4	962.86	5	35.48
JEWELL	1016.00	1279.53	5	1574.80	6	23.08
JOHNSON	95116.00	3493.63	8	3518.86	9	.72
KEARNY	1342.00	3055.14	8	1043.22	5	-65.85
KINGMAN	2296.00	43.55	2	87.11	2	100.00
KIOWA	949.00	632.24	4	737.62	4	16.67
LABETTE	6292.00	3432.93	8	2956.13	8	-13.89
LANE	655.00	916.03	5	458.02	4	-50.00
LEAVENWORTH	17164.00	1421.58	6	1130.27	5	-20.49
LINCOLN	873.00	0.00	1	687.29	4	.
LINN	2107.00	47.46	2	2135.74	7	4400.00
LOGAN	816.00	1102.94	5	1960.78	7	77.78
LYON	9290.00	1776.10	6	2163.62	7	21.82
MCPHERSON	7105.00	1449.68	6	1548.21	6	6.80
MARION	3013.00	1095.25	5	1327.58	6	21.21
MARSHALL	3098.00	1807.62	6	484.18	4	-73.21
MEADE	1157.00	518.58	4	0.00	1	-100.00
MIAMI	6518.00	1841.06	7	2470.08	7	34.17
MITCHELL	1924.00	415.80	4	51.98	2	-87.50
MONTGOMERY	10023.00	4509.63	10	3901.03	9	-13.50
MORRIS	1558.00	3016.69	8	5134.79	10	70.21
MORTON	1058.00	189.04	3	189.04	3	0.00
NEMAHA	3001.00	566.48	4	333.22	3	-41.18
NEOSHO	4398.00	2046.38	7	1932.70	6	-5.56
NESS	1060.00	2169.81	7	0.00	1	-100.00
NORTON	1323.00	2191.99	7	3703.70	9	68.97
OSAGE	4120.00	728.16	4	752.43	5	3.33
OSBORNE	1177.00	0.00	1	0.00	1	0.00
OTTAWA	1437.00	974.25	5	1113.43	5	14.29

COUNTY	TOTAL POPULATION UNDER 18	1990 ARREST RATE	1990 DECILE RANK	1991 ARREST RATE	1991 DECILE RANK	ARREST RATE CHANGE 1990-91
PAWNEE	1957.00	1379.66	6	664.28	4	-51.85
PHILLIPS	1652.00	181.60	3	60.53	2	-66.67
POTTAWATOMIE	4744.00	1580.94	6	1391.23	6	-12.00
PRATT	2498.00	5684.55	10	4843.88	10	-14.79
RAWLINS	901.00	0.00	1	0.00	1	0.00
RENO	15891.00	5600.65	10	5953.06	10	6.29
REPUBLIC	1474.00	0.00	1	67.84	2	.
RICE	2789.00	1972.03	7	1900.32	6	-3.64
RILEY	14457.00	3548.45	9	3306.36	8	-6.82
ROOKS	1612.00	1178.66	5	434.24	4	-63.16
RUSH	876.00	228.31	3	0.00	1	-100.00
RUSSELL	1811.00	4417.45	9	3478.74	9	-21.25
SALINE	12974.00	6998.61	10	8624.94	10	23.24
SCOTT	1531.00	3396.47	8	2351.40	7	-30.77
SEDGWICK	111959.00	3963.06	9	5027.73	10	26.86
SEWARD	5878.00	5563.12	10	5733.24	10	3.06
SHAWNEE	41693.00	4441.99	10	4324.47	9	-2.65
SHERIDAN	873.00	0.00	1	0.00	1	0.00
SHERMAN	1839.00	3806.42	9	6688.42	10	75.71
SMITH	1138.00	0.00	1	175.75	3	.
STAFFORD	1377.00	145.24	2	363.11	3	150.00
STANTON	751.00	1997.34	7	266.31	3	-86.67
STEVENS	1545.00	453.07	4	258.90	3	-42.86
SUMNER	7494.00	2522.02	7	2668.80	8	5.82
THOMAS	2336.00	3852.74	9	4409.25	9	14.44
TREGO	966.00	1035.20	5	724.64	4	-30.00
WABAUNSEE	1786.00	55.99	2	447.93	4	700.00
WALLACE	529.00	0.00	1	0.00	1	0.00
WASHINGTON	1737.00	1151.41	5	1381.69	6	20.00
WICHITA	874.00	228.83	3	0.00	1	-100.00
WILSON	2639.00	3675.63	9	1591.51	6	-56.70
WOODSON	988.00	4959.51	10	2530.36	7	-48.98
WYANDOTTE	46065.00	4124.61	9	3749.05	9	-9.11
KANSAS	661,614.00	3,306.30		3,526.98		6.67

Arrest rates are calculated per 100,000 children under age 18.
Change scores are percentage change from 1990 to 1991.

Juvenile Incarceration Rates (Ages 12-18)

The juvenile incarceration rate measures the number of children ages 12 to 18 who are in the custody of Social and Rehabilitation Services (SRS) and are held in youth centers or detention centers. The data is the result of a one day census.

For the purposes of this indicator, "incarceration" does not mean "in jail." The juvenile incarceration rate does not include juveniles held in adult jails.

Kansas children are incarcerated at a rate of 231.8 per 100,000, or 2.3 per 1000. A national Kids Count study has shown that the rate at which Kansas incarcerates juveniles was higher than 44 other states in 1989.

Counties with over 2,000 children ages 12 to 18 and a juvenile incarceration rate half the state rate or lower are: Ellis, Franklin, Geary, Johnson, Miami and Riley.

COUNTY	NUMBER KIDS AGE 12-18	1989 INCAR. RATE	1989 DECILE RANK	1991 INCAR. RATE	1991 DECILE RANK	T CHANGE 1989-91
ALLEN	1469.00	136.15	5	0.00	2	-100.00
ANDERSON	781.00	256.08	8	128.04	5	-50.00
ATCHISON	1968.00	254.07	8	304.88	9	20.00
BARBER	536.00	746.27	10	186.57	6	-75.00
BARTON	2699.00	185.25	7	148.20	5	-20.00
BOURBON	1447.00	138.22	5	207.33	7	50.00
BROWN	1080.00	92.59	4	0.00	2	-100.00
BUTLER	5324.00	169.05	6	187.83	6	11.11
CHASE	288.00	.	.	347.22	9	.
CHAUTAUQUA	396.00	.	.	.	.	.
CHEROKEE	2238.00	89.37	4	134.05	5	50.00
CHEYENNE	303.00	660.07	10	330.03	9	-50.00
CLARK	221.00	.	.	.	.	.
CLAY	867.00	115.34	4	0.00	2	-100.00
CLOUD	957.00	313.48	9	522.47	10	66.67
COFFEY	841.00	0.00	2	237.81	8	.
COMANCHE	194.00	515.46	10	.	.	.
COWLEY	3674.00	381.06	9	136.09	5	-64.29
CRAWFORD	3160.00	284.81	8	189.87	7	-33.33
DECATUR	350.00	.	.	.	.	.
DICKINSON	1884.00	159.24	6	159.24	6	0.00
DONIPHAN	848.00	0.00	2	0.00	2	0.00
DOUGLAS	6895.00	116.03	5	145.03	5	25.00
EDWARDS	333.00	300.30	9	300.30	8	0.00
ELK	267.00	374.53	9	.	.	.
ELLIS	2529.00	39.54	4	39.54	4	0.00
ELLSWORTH	614.00	0.00	2	162.87	6	.
FINNEY	3704.00	296.98	9	458.96	10	54.55
FORD	2719.00	220.67	7	257.45	8	16.67
FRANKLIN	2159.00	185.27	7	92.64	4	-50.00
GEARY	2658.00	150.49	5	37.62	3	-75.00
GOVE	322.00	.	.	.	.	.
GRAHAM	343.00	.	.	.	.	.
GRANT	853.00	117.23	5	234.47	7	100.00
GRAY	623.00	0.00	2	0.00	2	0.00
GREELEY	175.00	.	.	.	.	.

COUNTY	NUMBER KIDS AGE 12-18	1989 INCAR. RATE	1989 DECILE RANK	1991 INCAR. RATE	1991 DECILE RANK	PERCENT CHANGE 1989-91
GREENWOOD	747.00	0.00	2	133.87	5	.
HAMILTON	225.00	.	.	.	.	.
HARPER	659.00	0.00	2	0.00	2	0.00
HARVEY	3105.00	96.62	4	193.24	7	100.00
HASKELL	473.00	0.00	2	0.00	2	0.00
HODGEMAN	200.00	.	.	.	.	.
JACKSON	1222.00	0.00	2	81.83	4	.
JEFFERSON	1588.00	125.94	5	188.92	6	50.00
JEWELL	355.00	.	.	.	.	.
JOHNSON	32698.00	97.87	4	85.63	4	-12.50
KEARNY	459.00	0.00	2	0.00	2	0.00
KINGMAN	865.00	0.00	2	0.00	2	0.00
KIOWA	389.00	.	.	257.07	8	.
LABETTE	2380.00	252.10	8	294.12	8	16.67
LANE	228.00	438.60	10	.	.	.
LEAVENWORTH	6120.00	179.74	7	114.38	4	-36.36
LINCOLN	348.00	.	.	.	.	.
LINN	801.00	0.00	2	124.84	5	.
LOGAN	315.00	.	.	.	.	.
LYON	3316.00	271.41	8	331.72	9	22.22
MARION	1131.00	442.09	10	176.83	6	-60.00
MARSHALL	1045.00	95.69	4	95.69	4	0.00
MCPHERSON	2517.00	397.30	10	238.38	8	-40.00
MEADE	435.00	0.00	2	229.89	7	.
MIAMI	2468.00	162.07	6	40.52	4	-75.00
MITCHELL	815.00	0.00	2	122.70	4	.
MONTGOMERY	3726.00	187.87	7	402.58	10	114.29
MORRIS	577.00	346.62	9	173.31	6	-50.00
MORTON	395.00	.	.	.	.	.
NEMAHA	1043.00	0.00	2	0.00	2	0.00
NEOSHO	1623.00	61.61	4	0.00	2	-100.00
NESS	371.00	269.54	8	.	.	.
NORTON	514.00	0.00	2	194.55	7	.
OSAGE	1580.00	0.00	2	0.00	2	0.00
OSBORNE	423.00	0.00	2	0.00	2	0.00
OTTAWA	509.00	0.00	2	0.00	2	0.00

COUNTY	NUMBER KIDS AGE 12-18	1989 INCAR. RATE	1989 DECILE RANK	1991 INCAR. RATE	1991 DECILE RANK	PERCENT CHANGE 1989-91
PAWNEE	826.00	242.13	7	363.20	10	50.00
PHILLIPS	590.00	169.49	6	0.00	2	-100.00
POTTAWATOMIE	1699.00	176.57	6	0.00	2	-100.00
PRATT	951.00	0.00	2	210.30	7	.
RAWLINS	312.00	.	.	.	.	.
RENO	5891.00	169.75	6	254.63	8	50.00
REPUBLIC	533.00	0.00	2	0.00	2	0.00
RICE	986.00	101.42	4	405.68	10	300.00
RILEY	5413.00	147.79	5	73.90	4	-50.00
ROOKS	572.00	0.00	2	0.00	2	0.00
RUSH	337.00	296.74	9	.	.	.
RUSSELL	642.00	155.76	6	155.76	6	0.00
SALINE	4561.00	372.73	9	350.80	9	-5.88
SCOTT	576.00	173.61	6	0.00	2	-100.00
SEDGWICK	37402.00	264.69	8	320.84	9	21.21
SEWARD	1951.00	153.77	6	307.53	9	100.00
SHAWNEE	14969.00	327.34	9	387.47	10	18.37
SHERIDAN	332.00	.	.	.	.	.
SHERMAN	652.00	153.37	5	460.12	10	200.00
SMITH	444.00	225.23	7	225.23	7	0.00
STAFFORD	474.00	0.00	2	0.00	2	0.00
STANTON	249.00	.	.	.	.	.
STEVENS	548.00	0.00	2	0.00	2	0.00
SUMNER	2787.00	430.57	10	143.52	5	-66.67
THOMAS	902.00	221.73	7	332.59	9	50.00
TREGO	348.00	287.36	8	287.36	8	0.00
WABAUNSEE	656.00	0.00	2	0.00	2	0.00
WALLACE	193.00	.	.	.	.	.
WASHINGTON	714.00	0.00	2	0.00	2	0.00
WICHITA	295.00	.	.	.	.	.
WILSON	1029.00	194.36	7	194.36	7	0.00
WOODSON	362.00	.	.	.	.	.
WYANDOTTE	15994.00	775.29	10	719.02	10	-7.26
KANSAS	235,574.00	227.50		231.80		1.88

Data are for children in SRS custody only. Juvenile incarceration rates are calculated per 100,000 children age 12 to 18.
Rates are not calculated for counties with too few children for meaningful interpretation.

CHILDREN'S RESIDENTIAL AND DETENTION FACILITIES

Out-of-home placement of children by SRS and local law enforcement has traditionally played a major role in the Kansas Child Welfare System. Residential, emergency and detention facilities have been a significant factor in those out-of-home placements. As we now look to non-residential alternatives and to the family and community for addressing the problems of children and youth, it is important to look at the recent history of children's facilities.

Table I is a compilation of data from 1986 through 1992 of the number of beds by type in Kansas facilities for which SRS contracts. These data indicate that the total number of beds rose from 840 in 1986 to 1074 in 1990 and to 1318 in 1992. Levels III and IV remained fairly consistent; small numbers of beds for special populations (secure care, Level VI and observation/stabilization) have been added; there has been a 50% increase in detention beds as Wyandotte, Reno, and Saline Counties built new facilities, and it is expected that 60 additional beds will be constructed in rural areas during 1993; and there have been dramatic increases in the number of Level V and Emergency/Temporary beds.

As Table I indicates, the number of Level V beds held fairly steady through 1990, but by 1992 there had been a major increase. The expansion occurred mainly in the Kansas City, Wichita and Topeka areas. Some expansion has also occurred in the previously unserved Chanute and Salina areas. These new beds have been developed in response to a perception that greater numbers of youth are entering the system with more difficult presenting behavioral problems.

The number of Emergency/Temporary beds has dramatically increased from 88 in 1986 to 177 in 1990 and to 306 in 1992. Increasing numbers of troubled families and the inability to place children in need of care in adult jails and detention centers have helped to spur the creation of new emergency beds. The bulk of the expansion has occurred in Kansas City and Topeka with new facilities also being added in the previously underserved areas of the western half of the state.

Table II shows the geographic spread of facilities by Area Office in 1992.

This rapid expansion of beds is one of the reasons SRS has placed a moratorium on the number of beds for which we will contract. We do not believe community alternatives to out-of-home placement will ever develop if we continue to pour greater and greater resources into maintenance of beds. We recognize we will always have need of some emergency, detention and residential treatment programs. However, we believe we can transition to a system of care which is less reliant on out-of-home care and more reliant on services brought into families. We believe residential providers have significant contributions to make to this effort. Many of them are willing to initiate or expand their family service programs. They need assistance in funding their start-up costs.

TABLE I

Bed Numbers By Type of Facility, 1986-1992

Type of Facility	1986		1987		1988		1989		1990		1991		1992	
	No.	Max. Rate	No.	Max. Rate	No.	Max. Rate	No.	Max. Rate	No.	Max. Rate	No.	Max. Rate	No.	Max. Rate
Level III	27	25.85	27	25.85	27	26.35	19	28.53	19	31.41	N/A	31.41	21	31.41
Level IV	412	43.55	352	43.55	357	44.40	379	48.11	488	52.92		52.92	416	52.92
Level V	215	57.00	173	57.00	197	58.15	203	63.01	237	69.31		69.31	347	69.31
Level VI		142.23		142.23		145.02		178.50	26	196.35		196.35	36	196.35
Secure Care							24	85.00	14	92.00			24	104.00
Detention***	98	40.90	98	40.90	98	41.70	108	45.18	113	49.70		49.70	150	49.70
Emergency/ Temporary	88	57.00	96	57.00	96	58.15	110	63.01	177	69.31		69.31	306	69.31
Observation/ Stabilization													18	250.00
*Missouri & Other Fac. with Licensed Capacity													792 **	
TOTALS	840		746		775		843		1074		N/A		1318	

*This category includes Level IV, Level V and unleveled facilities in Missouri and Kansas where SRS purchases only a fraction of the licensed capacity. No historical data exists on SRS usage of beds in these facilities; therefore, they are not included in the data.

**Not Included In Total

***60 additional detention beds are under development or being constructed. Completion of these rural facilities is expected during 1993.

9-5
28

TABLE II - 1992

Number of beds SRS has agreed to purchase in leveled facilities in Kansas and Missouri:

Other beds:

AREA	III	IV	V	VI	E/T	OBS/ STAB	TOTAL	SC	DET*	UN- LEVELED**
Chanute	0	58	74	0	16	0	148	0	0	0
Emporia	10	9	12	0	31	0	62	0	0	0
Garden City	0	15	24	0	12	0	51	0	0	24
Hays	0	25	0	0	10	0	35	0	0	0
Hutchinson	0	29	49	8	40	0	126	0	12	0
Kansas City	0	5	104	22	98	15	244	0	48	0
Lawrence	0	91	0	0	10	0	101	12	0	0
Manhattan	0	6	0	0	0	0	6	0	0	0
Olathe	0	25	232	0	16	0	273	0	30	0
Salina	0	17	35	6	0	3	61	0	5	30
Topeka	0	77	3	0	24	0	104	0	22	30
Wichita	11	59	88	0	49	0	207	12	33	76
TOTAL	21	416	621	36	306	18	1418	24	150	160

* 60 additional detention beds are under development. Completion of these rural facilities is expected during 1993.

**Explanation for unleveled:

Garden City	-	A/D	24
Wichita	-	A/D IOL	16 60
Salina	-	St Johns	30
Topeka	-	Cappers A/D	18 12

*** Level V Total includes 274 beds in Missouri which are currently available and used by SRS in 1992-93

9-29

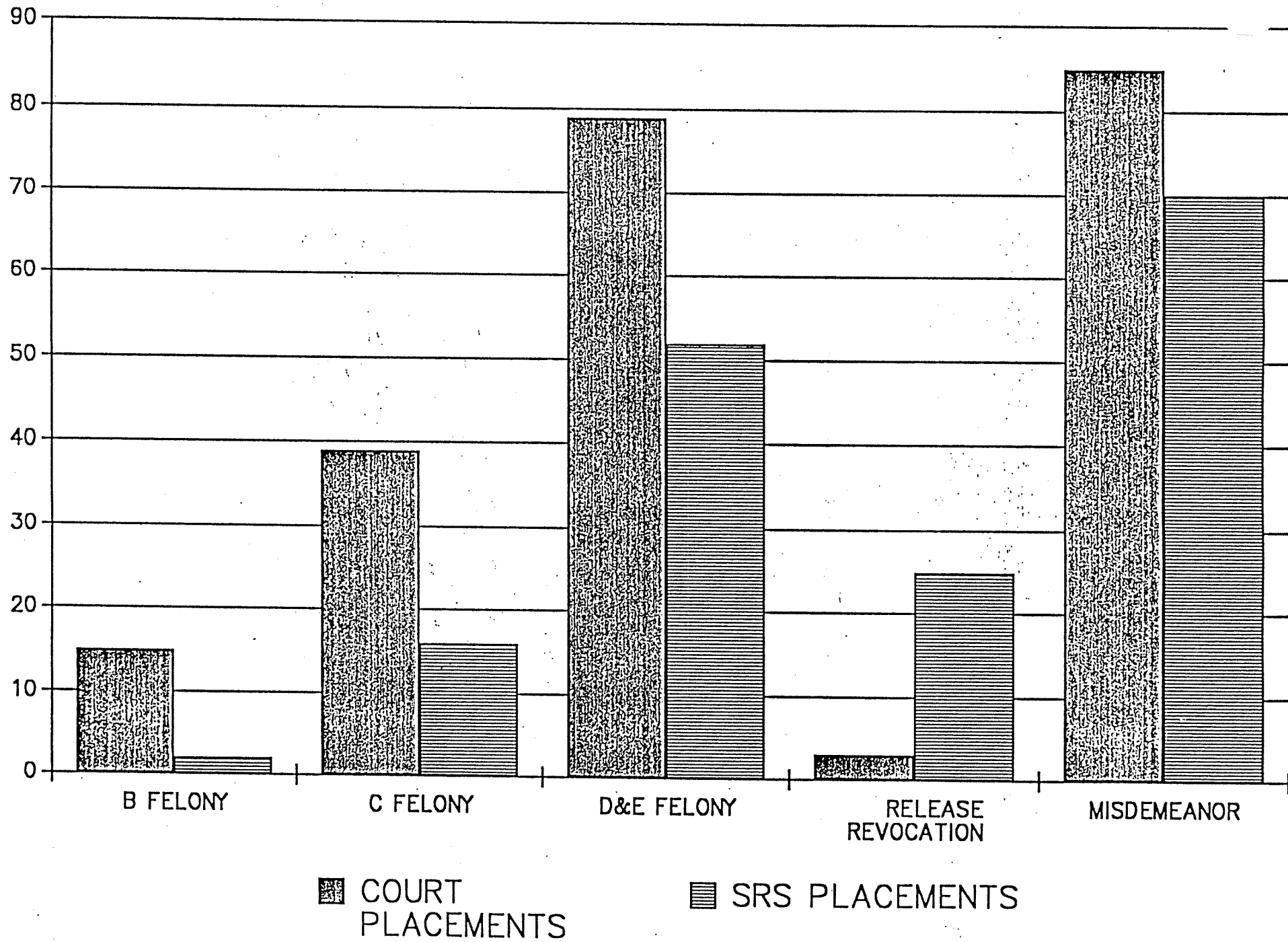
Kansas State Department of SRS
Youth and Adult Services Commission
Kansas Youth Centers
PHILOSOPHY

- We believe that youth should be given the care that should be provided by their parents.
- We believe that youth should be treated humanely in a safe and healthful environment, and that the dignity of the individual youth should be maintained.
- We believe that youth should be afforded all of their constitutional and legal rights, and that all disciplinary sanctions should be provided in a positive and constructive manner ensuring due process. We believe that all rules affecting them should be purposeful, clear, and no more restrictive than necessary.
- We believe that the Youth Centers have three primary responsibilities; care, habilitation, and public protection. In addition, there are external interests, such as families, victims, the general public, law enforcement agencies, juvenile courts, and civil rights groups, which may individually be more concerned with one element of the mission than with another. We believe the Youth Centers must consider input from each of these competing interests in order to achieve a desired balance among the mission elements.
- We believe that the Youth Center's must balance the immediate public protection afforded by secure facilities with the future public protection afforded by habilitated youth. We believe that secure facilities are necessary for some youth, but that the best method for providing future public protection is for youth to be reintegrated into their communities with a significantly lower probability of committing anti-social behavior and prepared for a normal life in the community.
- We believe that the reintegration process should utilize programs which are in close proximity to the youths' homes, and in the least restrictive setting which provides reasonable immediate public protection. We believe that the maintenance of family ties, when not abusive to the child, are key to reintegration and should be an integral part of the treatment program.
- We believe that there is not one universal treatment method, but that treatment should be determined on an individual basis according to the specific needs of the youth. We believe, however, that positive human relationships between

YOUTH CENTER GOALS

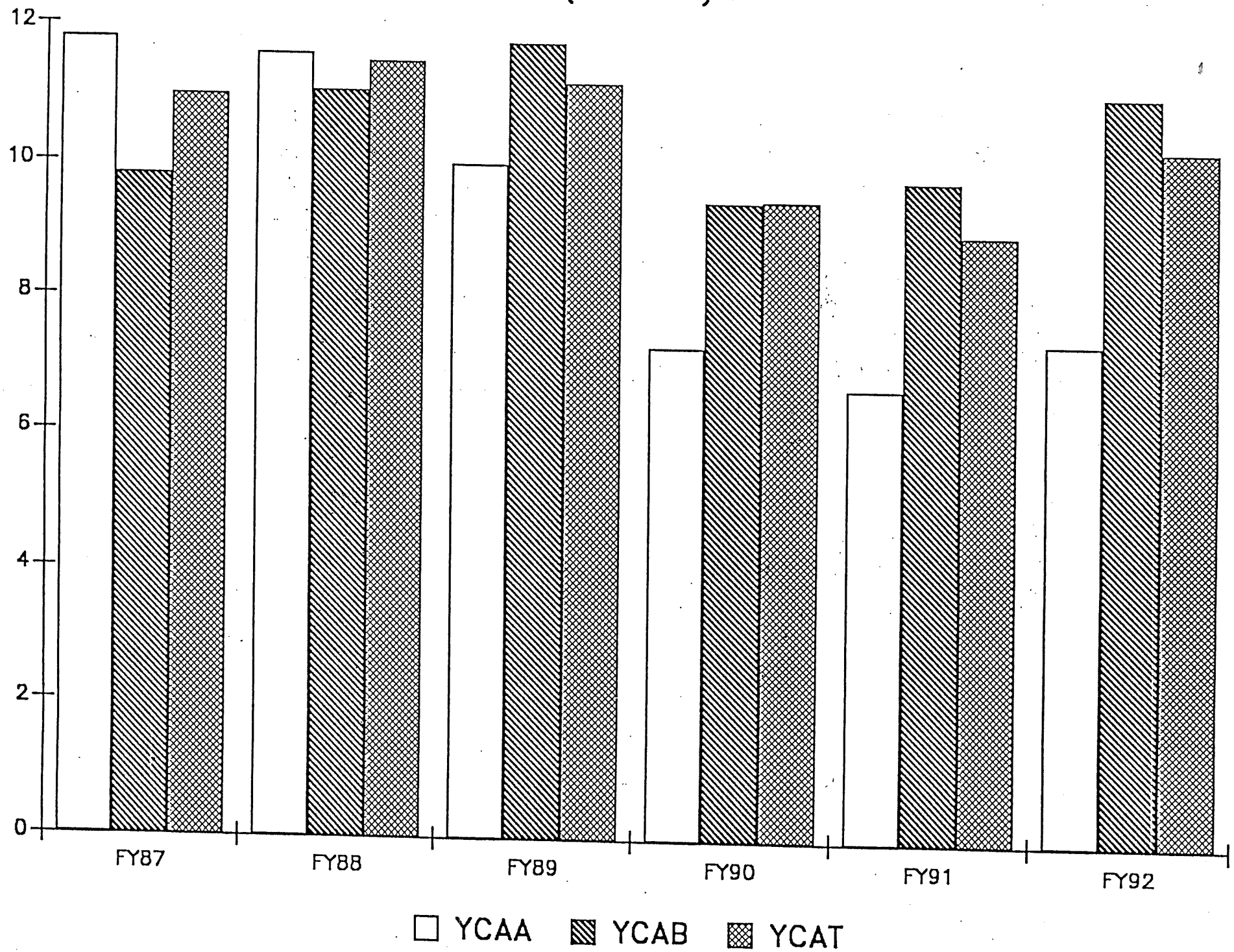
- Staff to achieve treatment and habilitation in a safe environment for students, staff and community.
- Maximize program impact through organizational structure.
- Involve and obtain ongoing input from line staff on policy and budget planning.
- Provide an objective classification system which determines admissions to Youth Centers based upon objective criteria and available resources.
- Provide for physical plant security sufficient to accomplish safety and well-being of students, staff, and community.
- Provide specialized training for youth service staff to carry out the blended mission.
- Establish an agency organizational structure which supports and facilitates the blended mission.
- Develop a program which is open and sensitive to community expectations.
- Identify and respond to the needs of special populations.
- Provide a continuum of care for family and youth.
- Develop on-going short and long-term evaluation supported by a reliable information system.
- Maintain a positive work climate which supports organizational continuity.
- Active participation in national and state professional organizations.

PRIMARY OFFENSE AT PLACEMENT



9-14
32

(MONTHS)



9-11
33

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Youth and Adult Services Commission

Review of Kansas Juvenile Offender Policy and Practice
Conducted by
American Correctional Association (ACA)

Recent tragic events, both in this state and nationwide, have caused questions to be raised about current practices in management of juvenile offenders. Questions particularly arise over the transition of juvenile offenders back to family and community prior to completion of their stay in a state Youth Center. Youth on pass to home, or in attendance at off campus training or treatment programs, sometimes do not return or escape from supervision. A juvenile felony offender who recently did not return from pass was allegedly involved in a murder.

The larger question is one of balance between protection of public safety while at the same time seeing to habilitation of the juvenile offender. In an effort to address this question, with a focus on Kansas Youth Centers, the Department proposes to contract with the American Correctional Association (ACA) for an on site review of policy and practice. The Department is seeking outside review by a professional juvenile corrections organization which can bring a national perspective to the question of appropriate policy and practice in management of juvenile offenders.

The ACA is the national standard setting and accrediting organization for correctional agencies and facilities. The ACA Juvenile Division accomplishes these activities for juvenile training facilities, which in Kansas are our Youth Centers.

The Kansas Juvenile Offenders Code and the Department's Family Agenda are the primary policy forces which provide direction to the agency in addressing the needs of communities, offenders and their families and the operation of our state Youth Centers.

The Kansas Juvenile Offenders Code is the group of statutes controlling the process of charging, adjudicating, disposing, and treating youth who come under its purview. This code is specifically not a criminal code but is an exercise of the parental power of the state directed toward providing necessary care, custody, guidance, control and discipline as will serve the needs of the youth and the protection of the public. Preference for in-home intervention is specific and is supported by the Family Agenda which is directed at empowering offenders and families.

In addition to addressing the larger public safety/habilitation question from both the national and Kansas perspective, which would include public perceptions or views and professional views, we would propose the ACA respond to the following questions:

1) What is the inter-relationship among the requirements and expectations of the Kansas Juvenile Offenders Code, the Department's Family Agenda, and policy and practice of our Youth Centers? Is there congruence between requirements and practice?

2) Do current policies and practice provide adequate guidance and process to assure effective resolution or balance between the sometimes divergent roles of habilitation of youth and protection of the public?

3) Is the Kansas Juvenile Offenders Code current and responsive to recent changes in juvenile behavior and risk to the public?

4) Does the Kansas system operate within national policies and standards as defined by ACA?

5) What are ACA specific recommendations on management of juvenile offenders and transition back to community living including home passes, work study and other off campus activity?

The ACA review is planned for November 8, 9 and 10, 1993.

We would expect the following activity to occur in the process of this review:

1. Review of the Kansas Juvenile Offenders Code and SRS Family Agenda.
2. Review of applicable written policies and procedures.
3. Discussion with the Secretary and Commissioner for their perspective.
4. Discussions with Youth Center Superintendents and their staff to this review for their perspective.
5. Meeting with the Kansas Reinventing Government Youth Team.
6. Meeting with parents.
7. Meeting with selected state policy makers.
8. Discussion with youth to gain their perspective.

This review should result in a report to be submitted to the Commissioner of Youth and Adult Services by November 30, 1993.

JWA:tab
10/6/93

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Juvenile Offenders

SRS Mission

The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship, by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others.

SRS Family Agenda

In January 1992, the Family Agenda for Children and Youth was adopted. The agenda's initiative were divided into five broad clusters:

1. Helping Families to Safely Care for their Children
2. Improving Out-of Home Care for Children When Placement is Necessary
3. Working With Juvenile Offenders: Help for Troubled Kids and their Families While Providing for Public Safety
4. Involving Communities and Other Systems in the Care and Protection of Kansas Children
5. Strengthening the Department's Capacity to Better Serve Children and Families.

This paper focuses on the proposed initiatives under Cluster 3, Working with Juvenile Offenders.

1. Create a Day Reporting System Enabling 600 Offenders to Be Supervised in Their Communities and Remain at Home With Their Families.

STATUS:

Day Reporting Centers are operational in Wyandotte, Sedgwick and Crawford counties and provide programing for 200 youth per year.

The Department developed and implemented a placement screening guide, based on offense history, to determine which youth should be served in the community and which are to be placed in Youth Centers. The intent is to place only more serious offenders in Youth Centers to enable longer stays.

2. Create Seventy New Specialized Residential Transition Beds.

STATUS:

Since the adoption of the Family Agenda the Department has changed its focus from transition beds to transition services. Some youth are

being transitioned back into the community through Day Reporting, substance abuse programs, group and residential care and follow-up supervision. Statewide there is a lack of a full array of transition services available for youth returning to the community.

3. Add a Family Treatment Component at Each Youth Center.

STATUS:

Resources necessary to accomplish this were not funded for the Youth Centers, however changes have occurred through policy to tie the Youth Center programs more closely with the family and community.

4. Enhance Staff Coverage, Security and Emergency Response Capability at the Youth Centers.

STATUS:

Ten positions were provided to the Youth Centers to enhance staff coverage.

Emergency radio systems were funded for Topeka, Beloit and Atchison Youth Centers. These are operational and have improved security at the Youth Centers.

5. Provide Training and Assistance to Address the Needs of Special Youth Center Populations.

STATUS:

Funds were made available to: re-design the behavior management system and training for direct care staff; provided Aggression Replacement Training for staff to help youth change their aggressive behaviors; and training staff to work with special populations including gang members, sexual abuse offenders; and substance abusers.

6. Downsize the Capacity of the Four Youth Centers.

STATUS:

Efforts are continuing to provide alternatives to Youth Center placements which are necessary as we move toward downsizing the institutions.

Length of Stay In Youth Centers

We continue to view as a priority the need to extend the stay in Youth Centers for youth who have committed repeat and violent offenses. To accomplish this will require additional alternatives for first time and minor offenders who are frequently placed in Youth Centers because of lack of community options. The length of stay cannot not be increased without the ability to control admissions. We have recently developed and implemented practices for community

staffing teams to develop alternatives to Youth Center placements; a screening guide based on offense history to determine Youth Center admissions and a re-review upon admission to verify the necessity of continued Youth Center placements.

Under discussion at YCAT are methodologies to increase the stay for serious offenders by increasing the requirements for moving through the levels of the behavior management system.

Physical Exercise Program At YCAT

The early morning physical exercise program was discontinued at YCAT when funding was not available for the Youth Service Worker trainee program which provided additional staff needed to manage the youth on the cottages.

To reinstate this trainee program would require eight staff at a cost of approximately \$150,000.

Community Alternatives to Youth Center Placements

We view it as a priority to invest in community alternatives which will accomplish keeping youth at home with their family and to place us in a better position to move toward the downsizing of the Youth Centers. Some of the services needed are:

- Expansion of Day Reporting programs statewide.

- Development of Intensive Supervision programs.

- Expansion of the availability of substance abuse treatment for juveniles.

- Increased development and utilization of house arrest and electronic monitoring programs.

- Assist residential facilities in tailoring their program and services to meet the special needs of offenders through start up and incentive grants.

- Flexible funding to purchase services necessary to maintain a minor offender in the home through in-home family therapy and behavior management, mental health services, job counseling, mentoring programs and more tangible services such as transportation, tuition, tools/uniforms required for work, etc.

Enhanced Federal Funding for Juvenile Offender Programs

With the legislative changes proposed in SB 400 additional Title IV-E funds could be available to the state for the juvenile offender population. SB 400 removes the reasonable efforts barrier to IV-E eligibility. Additional resources could range from half-a-million to a million-and-a-half depending on the proportion of the juvenile offender population eligible for IV-E foster care.

page 4

Matching of field staff activities in determining eligibility for IV-A Emergency Assistance will bring an undetermined increase in the federal draw.

The state has met its jail removal requirements related to the Juvenile Justice Delinquency Prevention Act thus the state formula grant funds will be re-directed: to provide technical assistance to existing juvenile justice agencies for the improvement of services; to provide startup funding for alternatives to incarcerations/detention and/or intermediate sanctions for juvenile offenders; to help create and establish services that will keep children out of the juvenile justice system; to help create and establish services that will address serious crime committed by youth and to address the disproportionate minority confinement of juveniles.

October 6, 1993

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Youth and Adult Services

M E M O R A N D U M

TO: Dave O'Brien

DATE: October 20, 1993

FROM: Mark Matese

SUBJECT: Community Corrections

The following counties provide Community Corrections services to juveniles:

Douglas
Shawnee
Saline
Johnson
Leavenworth
Montgomery
Reno
Sedgwick

Following is the total number of juvenile offenders served for the last five (5) fiscal years:

FY1989	214
FY1990	245
FY1991	350
FY1992	421
FY1993	485

The type of services available through Community Corrections includes Intensive Supervised Probation (ISP), House Arrest-with and without electronic monitoring, psychological and substance abuse counseling, drug testing, job training, parenting classes, etc. Johnson County provides post-dispositional detention programming called Crossroads which is funded in part by Community Corrections. This is the only residential program provided through Community Corrections Act (CCA) resources that I know of.

It should be noted that there are nine (9) other counties/judicial districts that offer ISP without funding through the CCA. The juveniles served in those areas are not included in the above numbers.

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Youth and Adult Services

M E M O R A N D U M

TO: David O'Brien

DATE: October 20, 1993

FROM: Carolyn Bolen

SUBJECT: Attendant Care contracts
counties/youth served

THERE ARE 34 ATTENDANT CARE SITES IN THE STATE.

THESE SITES SERVE 76 COUNTIES.

ATTACHED ARE THE STATISTICS ON YOUTH SERVED AND TYPES OF OFFENSES AS COMPILED BY MAINSTREAM.

Atchinson County - Atchinson County

Barton County - Barton County
Stafford County

Butler County - Butler County

Cherokee County - Cherokee County

Clay County - Clay County

Cowley County = Cowley County

Crawford County - Crawford County

Decatur County - Decatur County
Norton County

Douglas County - Douglas County

Ellis County - Ellis County
Trego County
Gove County
Rooks County

Ellsworth County - Ellsworth County

Finney County - Finney County
Gray County

Franklin County - Franklin County
Anderson County
Coffey County

Osage County
Allen County

Grant County - Grant County
Morton County
Stanton County
Stevens County

Jackson County - Jackson County
Jefferson County
Pottawatomie County
Wabaunsee County

Jewell County - Jewell County
Cloud County
Mitchell County

Kearney County - Kearney County
Greeley County
Hamilton County
Scott County
Wichita County

Kiowa County - Kiowa County
Clark County
Comanche County

Leavenworth County - Leavenworth County

Lyon County - Lyon County

Miami County - Miami County

Montgomery County - Montgomery County
Chautauqua County
Elk County

Morris County - Morris County

Pawnee County - Pawnee County
Edwards County
Hodgeman County
Lane County
Ness County
Rush County

Phillips County - Phillips County
Graham County
Osborne County
Smith County

Republic County = Republic County

Rice County - Rice County

Riley County - Riley County

Russell County = Russell County

Saline County - Saline County

Seward County - Seward County
Haskell County
Meade County

Sumner County - Sumner County

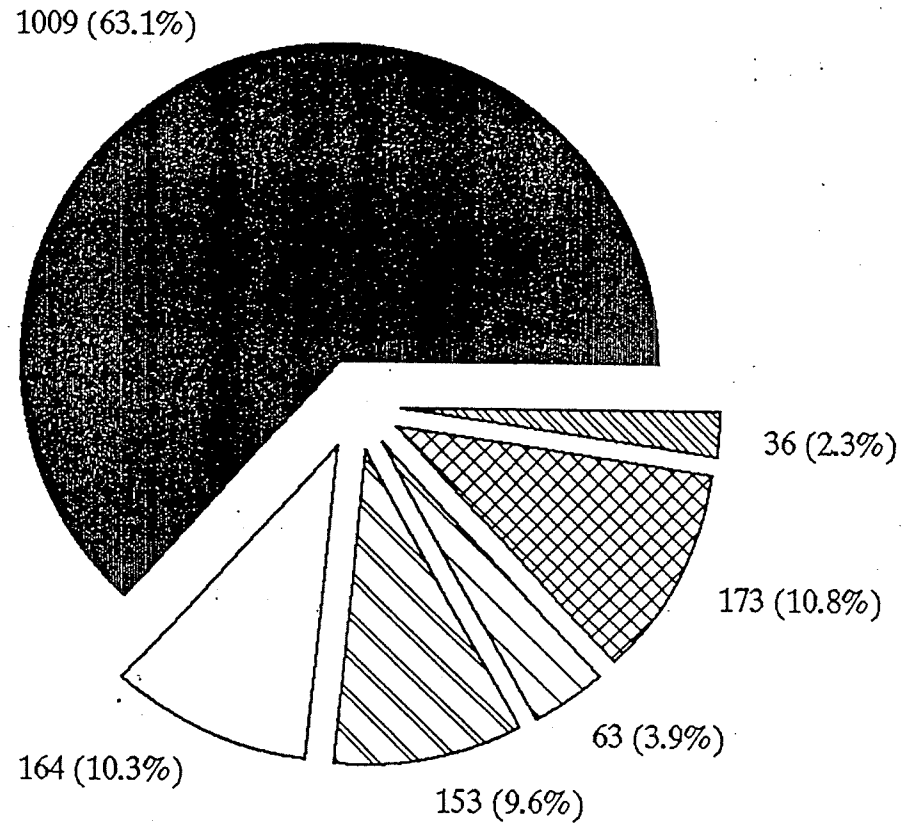
Thomas County - Thomas County
Cheyenne County
Logan County
Rawlins County
Sheridan County
Sherman County
Wallace County

Yates Center - Woodson County

44
9-4-93

ATTENDANT CARE

YOUTHS IN ATTENDANT CARE DEC 1988 - APRIL 1993



 RUNAWAY/CINC
 ALCOHOL/DRUG

 AUTO/FELONY THEFT
 PROPERTY/MISC.

 WARRANT/PROBATION VIO
 VIOLENT CRIMES

Attendant Care Data gathered from Dec 1988 through April 1993

Runaway/CINC

Runaway - 687
CINC - 238
Uncontrollable - 21
Protective Custody - 17
Truant - 6
Curfew - 4
Driver Arrested - 2

Auto/Felony Theft

Auto Theft - 82
Felony Theft - 19
Theft - 54
Shoplifting - 9

Warrant/Probation Violation

Warrant - 64
Probation Violation - 25
Ct. Hearing, awaiting transport to YC - 36
Violation of Ct. Ordered Placement - 7
Awaiting Placement - 14
Removal from Ct. Ordered Placement - 3
Awaiting Hearing - 2
Foster Parent Arrested - 1
NCIC from Michigan - 1

Alcohol/Drug

Driving Under the Influence - 9	Conspiring to sell & distribute cocaine - 1
Possession of Paraphernalia - 1	Harvesting Marijuana - 1
Possession of Marijuana w/ intent to sell - 1	Sale of Hallucinogenic - 2
Possession of Narcotic - 1	Sale of Drugs - 1
Consumption as a Minor - 24	Sale of Methamphetamine - 1
Mfg. Hashish - 1	Sale of Marijuana - 2
Possession of Illegal Substance - 4	Possession of Alcohol - 3
Possession of Cocaine - 1	Possession of Marijuana - 6
Transporting open container - 4	

Property/Misc.

Driving while license under suspension - 3	Leaving the scene of an accident - 1
Criminal damage - 16	Property damage - 2
Burglary - 31	Possession of Stolen Property - 8
Disorderly Conduct - 8	Battery - 36
Assault - 12	Reckless Driving - 1
Terroristic Threat - 7	Trespassing - 2
Criminal Trespass - 10	Battery LEO - 7
Material Witness - 2	Intimidating a Witness - 1
Awaiting transport to detention - 1	Suspicion - 2
Auto Burglary - 3	No Driver's License - 1
Poss. of a Fake ID - 1	Indecent Exposure - 1
Forgery - 3	Criminal Mischief - 1
Breaking & Entering - 3	Threatened Suicide - 1
Pointing a Gun at Others - 1	Suspect in Felony - 1
Court Ordered Pickup - 6	Threatened Violence - 1

Violent Crimes

Aggravated Assault - 11	Aggravated Sodomy - 1
Arson - 5	Sexual Abuse - 1
Rape - 3	Aggravated Battery - 4
Aiding and Abetting a Homicide - 1	Indecent Liberties with a Child - 3
Aggravated Sexual Battery - 1	Aggravated Burglary - 1
Vehicular Battery - 1	Robbery - 3

SUMMARY

Runaway/CINC	1009	63.1%
Auto/Felony Theft	164	10.3%
Warrant/Prob Viol	153	9.6%
Alcohol/Drug	63	3.9%
Property/Misc.	173	10.8%
Violent Crimes	36	2.3%
	1598	100%

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Youth and Adult Services

DAY REPORTING

Introduction

Day Reporting programs are community based alternatives for non-violent juvenile offenders who would otherwise be placed in the custody of the Secretary for out of home placement or committed to one of our state Youth Centers. These programs provide 16-18 hours a day intensive supervision of juvenile offenders to monitor and manage their offending behavior while maintaining them in their own home and community.

Goals

The goals of Day Reporting are to:

- Maintain youth offense-free in the community and with their families or in Independent Living.
- Build a coalition toward a community commitment to these youth and their families to assure access to the broadest possible services and funding sources.
- Provide transition and long term structure for youth as they exit from the program.

Service Elements

Assessment and Case Planning - The programs provide an initial assessment using input from the family, youth and community. On-going case planning addresses, and is responsive to, the individual needs and behaviors of the youth and is directed at maintaining the youth in the program. Case planning is done on a weekly basis to examine progress and all other factors. Revisions in the case plan are made as deemed necessary.

Tracking and Supervision - The programs provide youth tracking as a tool to maintain accountability through multiple daily contacts and knowledge of where the youth spends his/her time. The programs monitor youths' behavior and minimize the propensity for law violations. Contact occurs at home in the neighborhood, at work/school, in the day reporting office or on a service activity.

Scheduling - The program provides a schedule of activities and contacts to include counseling sessions and groups with input from the youth, family and community. Some contacts are unannounced.

Individual Counseling - The programs provide one to one case work for all youth. Staff are available on a 24 hour basis, seven days a week.

Crisis Intervention - The programs provide crisis intervention services 24 hours a day, 7 days a week, 365 days a year.

Family Systems Case Planning - The case plan recognizes the role of the family system in addressing any assessment of the youth's needs, behaviors and actions. Intervention with the entire family includes a variety of approaches.

Community Involvement - Community involvement is assured through the coalition of community services committed to the youth and their families which enable the youth and their families to benefit from the educational, vocational, recreational, social service, and other appropriate programs in the community to the fullest extent possible.

Educational Program - Extensive networking is done to establish and maintain productive and positive relationships with the appropriate school personnel. School personnel are included in case planning and their input is sought and encouraged. The program staff monitor attendance, attend meetings with school personnel, and support and supervise the educational plan.

Vocational Program - The program evaluates the youths needs for employment including such factors as employment history, school involvement, age, motivation, skill levels and interests. If employment is indicated, the program staff will assist the youth seeking, entering, and maintaining gainful employment.

Recreational Program - The program staff provide recreational activities to youth. These activities include on-to-one and group activities as appropriate to the youth's needs. Youth are taught how to use community recreational resources constructively.

Social Service Program - SRS is an integral part of the coalition of community resources and agencies providing a network of services to the youth and their family. The program maintains contact with SRS regarding the youth's progress in the program and SRS is included in case planning for the youth and in the development of the initial assessment, case planning and exit planning.

Specialized Service Components

Transportation - The programs have the capacity to provide transportation for youth to and from employment, Court, meetings, educational and medical appointments and recreational events.

Drug Testing - Periodic/routine drug testing is provided by the program as needed.

Electronic Technology - The program provides electronic technology to monitor youths' activities on a limited and as-needed basis.

Placement (Aftercare) - The program assists SRS in preparing the youth for placement and/or termination from the program and from custody. The program evaluates the youth's needs and assists in explaining alternate placement strategies. This component also includes ensuring support services and community ties are in place prior to separation from the program.

Number of Youth in the Day Reporting Program

DCCCA Day Reporting Program in Wichita presently has 41 youth in their program. Three youth recently graduated. YWCA Day Reporting Program in Kansas City has 41 youth in their program, and they also recently graduated three youth. Families and Children Together (FACT) Day Reporting Program in Pittsburg, which is a smaller program than the other two, presently has four youth in their program. They have had four youth who have graduated from their program.

10/27/93

State of Kansas
Senate Judiciary Committee

October 28, 1993

Youth Centers at:
Atchison
Beloit
Larned
Topeka

History:

It has long been recognized a vast majority of youth experiencing delinquency have significant problems with alcohol and drug abuse. Approximately 15 years ago, the Youth Centers witnessed a significant increase in the number of youth coming into the programs with major problems associated with substance abuse. Based on a study that was completed seven years ago, in cooperation with Alcohol & Drug Abuse Services Commission of SRS, the Youth Centers were able to clearly document that up to 80% of the youth served had significant alcohol/substance abuse problems and 20-25% were clearly identified as having problems that reached addiction levels.

Based on the awareness that growing numbers of youth experiencing significant drug/alcohol problems were coming into the program, the Youth Centers began to attempt to respond to this phenomena in a variety of ways. They started initially using their existing resources, including bringing local AA and NA groups into the Youth Centers, providing opportunities for selected youth to participate in community AA/NA groups, and taking advantage of the educational programs provided by the National Institute on Drug Abuse. This included having a number of staff trained in the NIDA Program, Drugs In Perspective (DIP).

Based on the study completed by ADAS seven years ago documenting the need for drug/alcohol addiction programming, positions were authorized at all four Youth Centers for a Substance Abuse Program Coordinator in FY87. Positions at Atchison, Larned and Topeka were funded through state general fund appropriations and the position at Beloit was funded with federal drug grant money. The positions initially had as their primary focus providing drug and alcohol abuse education for residents and staff. As these programs have developed, the need for treatment has been much more clearly

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documented. Based on this need, almost three years ago, Youth Services, in cooperation with Alcohol and Drug Abuse Services applied for a federally funded treatment improvement grant. The grant was awarded and we were able to hire Substance Abuse Counselors. The Youth Center at Topeka has two counselors and each of the other Youth Centers has one. The counselor positions have allowed us to add significant additional programming related to treatment issues.

The number of youth needing alcohol and drug treatment has remained consistently high and we continue to view the need for substance abuse services as an essential element in the Youth Center treatment programs.

Current Programming

Each Youth Center has developed extensive drug education and prevention programs. We have initiated substantive substance abuse treatment programs with each Center at different stages of development in the area of treatment.

Programs common among all Youth Centers are as follows:

1. Drug Education - Each youth participates in a group that discusses the differing classifications of drugs and their effects on human functioning. Other topics may include Fetal Alcohol Syndrome, Family Issues, Relapse Coping, Money Addictions, 12 Step Programs, Relationship Dependency issues, AIDS and other Sexually Transmitted Diseases. All new staff participate in a similar training experience.
2. 12 Step Program - Each youth that is assessed as having substance abuse problems participates in a 12 Step program such as Alcoholics Anonymous or Narcotics Anonymous. The 12 Step programs provide most of the treatment related programming at the Youth Centers.
3. Co-Dependency Issues - Many of the youth will be involved in groups that focus on feelings related to family issues of neglect and abuse and the co-dependency phenomenon. Many of the youth attend Alateen meetings.
4. Sexual Abuse and Sexual Offender Programming - Over 70% of the girls admitted to Beloit have been sexually abused and have the opportunity to attend Sexual Abuse groups. Sexual offender programming is offered for the boys. Both of these issues are very often related to substance abuse.

5. Treatment Counseling - Individual and Group treatment counseling is provided in varying degrees and is one area that we all agree needs additional staff resources to do an adequate job.
6. Continuing Care - Substance abusing youth are started in a Recovery Program while they are at the Youth Centers. Recovery from the disease of alcoholism and/or drug addiction does not happen in a few short months and the need for continuing participation in recovery activities when the youth are released is strongly emphasized.
7. Family Participation - We recognize the need to include families in the treatment process whenever possible and each Youth Center is working on approaches to the issue. Beloit has been able to utilize funding from Alcohol and Drug Abuse Services to provide a "Family Weekend" for selected families. We are able to reimburse families for travel, food, lodging and child care expenses. They participate in an intensive weekend of drug education and family counseling activities. The feedback from families has been very positive. Larned has families participate in some Continuing Care programs and Topeka and Atchison have Family Advisory Committees.
8. Cultural Sensitivity - All have started trainings on recognizing and appreciating cultural issues related to substance abuse.

Current Problems

1. We are concerned that when our federal grant expires in 1995 we will lose our Substance Abuse Counselors. That would require us to reduce our direct treatment services offered to youth and would nullify the gains we have made in providing treatment programming.
2. There are fewer and fewer adolescent treatment services available to youth around the state as a whole, as a component of aftercare. We believe that changes in the insurance company reimbursements are largely responsible for the diminution in services. Also, adolescents are much more difficult to treat for substance abuse problems, and are extremely relapse prone, which contributes to the lack of interest in providing services.
3. Motivating youth to participate in continuing aftercare is difficult. There is a reluctance to revoke a youths conditional release because they do not keep their continuing care obligation. The youth have the attitude they do not have

to go because there will be no immediate consequences for failure to participate.

4. Lack of funds available to purchase materials and services such as printed matter, videos, computer programming and training.
5. Some of the youth served are affected by Fetal Alcohol Syndrome and Fetal Alcohol Effects. There is no funding earmarked for diagnoses of these problems which requires a physicians medical diagnosis.

Needs

1. Staff Resources - We need to have the State of Kansas adsorb the fiscal responsibility for the Substance Abuse Counselor positions that are currently funded by the federal grant, when the grant expires in FY95. We also need additional Substance Abuse Counselor positions for each Youth Center. The addition of a counselor position at each Youth Center would enable us to enhance our treatment efforts and especially do a more thorough job of follow-up with the youth in continuing aftercare. We also anticipate the need for clerical assistance. That need is related to the requirement to be licensed by Alcohol and Drug Abuse Services as treatment programs.
2. A needs assessment completed to determine where there is a lack of adolescent continuing care programs. If funding is needed to develop such programs we see it as a high priority budget item.
3. The ability to impose immediate sanctions on youth who refuse to attend continuing aftercare.

Respectfully submitted,

Bill Sherlock
Substance Abuse Program Coordinator
Youth Center At Beloit

YOUTH CENTER AT ATCHISON TESTIMONY
SENATE JUDICIARY HEARING
October 28, 1993

Mike Driscoll, Chief Social Worker, YCAA

The Youth Center at Atchison has been encouraged by and grateful for the development of the day reporting services for juvenile offenders in Kansas. The ever increasing juvenile offender population has intensified the need to undertake new actions regarding community resources. The day reporting concept seems to incorporate some of the critical components in the rehabilitation process of a youth -- the family, the home community, and the local school system.

The need for greater community options for juveniles, in the continuum of care, is tremendous, particularly in the larger urban areas of Kansas City and Wichita. The predominate number of youth in the juvenile offender system are from these large cities. The state needs to consider some unique urban strategies that will address these critical areas. The day reporting programs appear to be a step in the right direction.

The Day Reporting Programs have been very helpful in diverting many youth from placement at the youth center. This contribution allows the youth center to focus on the more serious offenders. The aftercare component of the Day Reporting services has been more challenging. Some of the youths have exhibited a marginal commitment that can require new service options.

The youth center's referrals have adhered to the principal of serving the less serious offenders in the least restrictive environment. The more serious offenders have been restricted from the day reporting services due to the admission guidelines and screening process.

The youth center and the day reporting staff constantly struggle with balancing the need for public safety, and serving the youths and their families in the community. Increasingly the youth centers are servicing the more serious offenders. More than 50% of the YCAA population is now classified as violent offenders. The day reporting programs appear to be experiencing greater success with diversionary youth, rather than youth requiring aftercare services. There exist a need for community programs for both areas.

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attachment 11-1

In summary, it appears we need to continue to re-evaluate and adjust to the pressing needs and challenges of the juvenile offender population in Kansas. A continuing commitment is needed to the development and expansion of community resources for first time misdemeanor offenders particularly in the urban areas. Such developments will allow us to focus our limited youth center resources on the more serious repeat felony and violent offenders. It should allow for increased lengths of stay for these types of offenders which is consistent both with increased public safety and enhanced treatment program impact.

I will now entertain questions regarding any additional information you may find necessary.

YOUTH CENTER AT TOPEKA

Carrol Mills, Ph.D., Chief Psychologist

Senate Committee on Judiciary

October 28, 1993

SRS Mission Statement

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others."

Youth Center Mission Statement

The mission of the Kansas Youth Centers is to provide juvenile correctional programs with a blended mission of care, habilitation, treatment and public safety, which assures:

- o Protection of the safety of youth, staff and the public.
- o Youth come to understand the predictable connections between behavior and consequences and that they can control what happens to them by controlling their behavior.
- o Realistic treatment and programming for youth and their families.
- o Protection of the legal and civil rights of youth.
- o Spiritual, moral, physical, intellectual and social needs of youth are met.
- o Constructive training aimed at habilitation and re-establishment of youth in society.

TESTIMONY

Mr. Chairman, Members of the Senate Judiciary Committee, I appreciate this opportunity to appear before you today to discuss matters related to the Youth Center at Topeka. I have been requested to discuss four specific aspects of the program at the Youth Center at Topeka, three of which have been implemented within the last two years.

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The first matter is the Parent Advisory Committee which has been meeting for over two years with the YCAT staff. Originally, Carolyn Risley Hill, as a part of the Family Agenda that SRS undertook, suggested that Keys For Networking, a parent-advocacy group, meet with us at YCAT concerning specific parent concerns. This has now become a formal meeting, on the first Saturday of the month with 10 - 20 parents and 10 - 20 staff talking together. The most important issue has been developing better communication between YCAT staff and parents. The second issue of concern has been parents' access to transportation to visit their adolescent. The Parent Handbook has been revised and we have an Exit Survey for both the youth and families. The Youth Center has made significant changes in our procedures to accommodate the parents' concerns. Hopefully YCAT is a little more user-friendly for parents today.

The second topic I shall discuss is the change to Standard Dress. There was a time when the students were wearing colors to signify their gang membership. Gangs would collect in front of the school and elsewhere, and challenge other gangs. Expensive designer clothing and large, heavy, gold chains and rings were flaunted and stolen (stealing was a significant problem) or exchanged for contraband. The Youth Center asked parents what they thought about a standard dress code and the reduction of personal property and they were supportive. The money for Standard Dress was approved during 1993, and implemented in May. Youth were involved in the planning and briefed on the steps to phase in the code. It was quickly accepted and has been surprisingly successful. The dress code has considerably reduced gang activity across campus and the campus has grown quieter. Stealing and the sharing of contraband have decreased substantially. All youth have adequate changes of appropriate clothing (jeans and t-shirts, polo shirts, sweat-shirts, wind-breakers and sneakers). There is no dispute any longer between staff and student about suitable apparel.

The third subject I'd like to address is the Aggression Replacement Training or (ART) classes that have started on campus. The classes are taught in the boy's units and are modeled after the program that was begun in New York several years ago to teach adolescents--many hardened street kids--social skills. The training is much more than how to count to ten when you want to haul off and slug someone, it does teach that, and: how to recognize you're getting angry, options of how to express anger appropriately, how to deal with embarrassment, failure, frustration, new situations, and many, many, more social interactions. For youth who have always been quick to act upon impulse, ART gives the boys new and acceptable social competence. It also teaches simple moral reasoning from a very selfish, "what's best for me", to a broader, "what's best for the world I live in, and ultimately for me and my neighbors." Youth have started using these skills to negotiate their wants and needs to one another and to staff in intelligent and suitable words, hopefully lessening the tensions and the hitting that is so common between incarcerated adolescents. We haven't had the program underway long enough to see significant changes but reports are positive from cottage staff, teachers, and the youth themselves.

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Lastly, I'd like to talk about the kind of youth that have been coming to the Youth Center in the ten years I've been working there. In 1983, it was unusual to have a youth on campus who had committed murder. When it happened it was an isolated instance and was not gang related. Today, we have many violent offenders admitted, and the offenses include youth with multiple murder charges. We also have several boys whom we suspect are guilty of shootings, but have never confessed, nor are they likely to. We looked at the admissions this month since the first of this year, and found that our violent offender admissions have risen monthly from 21% in January to 34% in October. The difference between 21 and 34 is 13, or a 61% increase in 10 months which is a steady rising month after month. We have been seeing an influx of youth who are being incarcerated for more and more serious crimes.

Thank you for your attention. If there are any questions, please allow me to answer them.

Carrol Mills, Ph.D.
Chief Psychologist
Youth Center at Topeka

PRESENTATION FOR JUDICIARY COMMITTEE

Youth Center at Larned

Steve Crockett
Youth Service Director

During the last two to three years, the Youth Center has seen a dramatic change in the type of juvenile offenders being admitted to the facility. The admissions have changed from property crimes to the more increasingly violent, aggressive crimes against persons. Another important change has been the students' overall lack of feelings or remorse towards their victims. This is due, in large, to the violent home environment in which a large percentage of the youth live on a daily basis.

The current population of the Youth Center at Larned is approximately 50-55% hard-core street youth who have some association with street gangs. These youth have different levels of involvement from the more hard-core "OG" status, to the associate status (see attachment #1).

The youth gang member is identified either by self-admission, Youth Center staff, Area SRS staff, or various law enforcement agencies, either in or out-of-state.

The student gang population is not just an urban problem any longer; it has been slowly spreading to most of the rural communities across the state. During the last 18 months, the Youth Center has admitted gang members from approximately 37 gang sets, from cities as large as Sacramento, California, to as small as Ulysses, Kansas (see attachment #2). This population has created several challenges for the Youth Center. In several communities across the state, there has been continued denial of any gang activity. Furthermore, there is a lack of cooperation between both county and city law enforcement agencies, with a failure to network information between themselves or other agencies.

While on the streets, many of the youth have waged "war-like" actions against other gangs. This activity has led to many of the students and their families being wounded or shot at in the past. The Youth Center staff need all available information in order to keep these individuals separated, if possible, thus providing a safe, secure environment for both staff and students.

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The Youth Center has had more assaults on staff in the last year, than in the last 10 years. In one incident, four staff were injured by a gang member who was out of control. The Youth Center is currently staffed for 60 students, however, the average population for the last two to three years has been 75, with a high of 93 students. At times, the staff work on a 40-1 student-staff ratio.

The Youth Center uses several approaches in dealing with the gang member and his behaviors. The first approach is to identify the individual's personal involvement with the gang. The Youth Center currently networks with several community law enforcement departments such as Wichita, Hutchinson, Great Bend, Salina, Garden City, Dodge City, and Kansas City, Kansas, as well as with the Youth Center at Topeka, the Youth Center at Beloit, and the Youth Center at Atchison. The Youth Center at Larned has also provided training for several city and county law enforcement agencies including the Kansas Bureau of Investigation.

The "Positive Peer Culture" philosophy is utilized by the Youth Center at Larned when dealing with all students, including the gang members. This program is based on the assumptions that: one of the major causes of delinquency is peer group influence and this influence can be channeled in positive directions; most youth can be held responsible for their actions; caring for and helping others will cause one to develop a positive self-image; and if given the opportunity, troubled youth will respond positively to caring and helping each other. Students are expected to help others solve the problem(s) which brought them to the Youth Center, and develop new values and socially acceptable behaviors. It is believed that as the student learns to care for and help others he will increase his own feelings of self-worth and develop a positive self-concept. This philosophy is a totally new concept for the gang member because it expects and demands good behavior from the student. They are responsible for not only their own behavior, but their peers' behaviors as well. Caring and helping are the overriding rules, and caring means "wanting what is best for another person."

The Youth Center utilizes "Money Addiction" groups for the students entering the facility with little or no personal drug usage, but who engage in the sale or "running" of drugs. This group is designed to help the student to identify the antisocial value system of attitudes and behavior which predispose this type of activity. Low self-esteem issues are identified, and the addiction to the fast money is compared to the disease of chemical addiction. Recovery concepts are related to the 12-Step Program, and the students formulate plans which replace the street life which accompanies the sale of drugs. During a two-year period, from September 1, 1991, to August 31, 1993, 342 students completed the Substance Abuse Program/Money Addiction groups, with a total of 59 students admitting to being hard-core drug/weapons dealers.

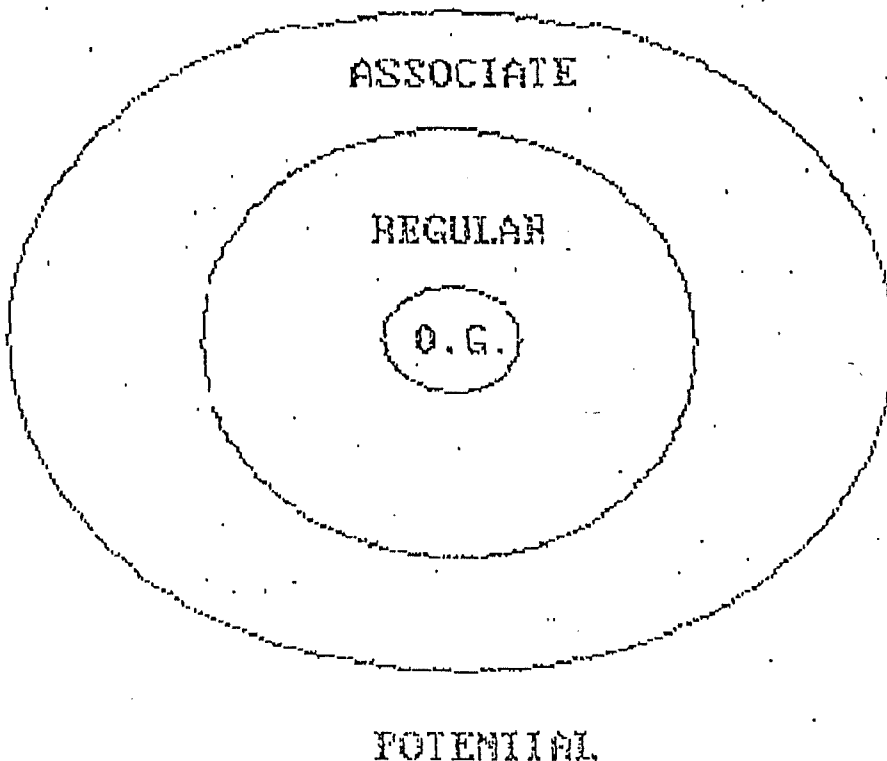
Many students complete the Youth Center programs with positive attitudes and motivation to lead drug-/gang-free lives, but the reality of the many pressures they face when returning to their homes and communities defeats them very quickly.

There is a great need for aftercare programs located outside of the major populated cities where these students can put to practice the concepts they have learned and then slowly make the transition back into their home community.

d/t: 10-28-93

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Four Types of Gang Members



1. O.G./Hard-core gang members make up approximately 10% of the group. They have been in the gang for the longest period of time. They are frequently in and out of jail, are often unemployed, and use or sell drugs. They are very influential in directing the gang.
2. Regular gang members are younger, usually 14-20 years old. They have been initiated into the gang, often back up the O.G. members in word and action, and are potential hard-core members.
3. Associate members vary in age but average 10-13 years. These youths are not official members of the gang, but they act as or claim to be part of the gang. They often dress in gang attire, spend time with gang members, and write or draw the graffiti associated with the gang.
(Note: should be considered dangerous)
4. Potentials are potential gang members. They live in or close to areas where there are active gangs, or they have a family member who is already a gang member. They can freely choose other alternatives, thus avoiding gang affiliation completely.

ATTACHMENT 2.

KNOWN YOUTH CENTER GANGS

TRUE BOYS (WICHITA, KS)
VATO LOCO BOYS (GARDEN CITY, DODGE CITY, WICHITA, LIBERAL, KS)
AZTECAZ BOYZ (GARDEN CITY, DODGE CITY, KS)
PHASE THREE BLOODS (GARDEN CITY, KS)
VARRIO 16 LOCOS (GARDEN CITY, KS)
VICELORD (GARDEN CITY, KANSAS CITY, KS)
N.S.K.O.M. (DODGE CITY, KS)
CRIP (DODGE CITY, KS)
INSANE CRIP GANGSTER (DODGE CITY, WICHITA, KS)
PLAYBOY CRIP (ULYSSES)
81 ST. CRIPS (COLO SPRINGS, COLO)
ROLLING 60's NEIGHBORHOOD CRIP (HUTCHINSON, WICHITA, LOS ANGELES, CAL)
SOLDIER (SALINA, KS)
SKINHEAD (WICHITA, KS)
BLACK GANGSTER DISCIPLE (WICHITA, TOPEKA, KANSAS CITY, KS)
HOOVER CRIP (WICHITA, KS)
K.K.K. (WICHITA, KS)
FOUNTAIN STREET CRIP (WICHITA, KS)
SECONED STREET JR. BOY (WICHITA, KS)
LITTLE MAFIA GANGSTERS (WICHITA, KS)
JUNIOR BOYS (WICHITA, KS)
O.W.V BLOOD SET (WICHITA, KS)
12th STREET CRIP (WICHITA, KS)
GHOST TOWN BLOOD (WICHITA, KS)
BLOODS (WICHITA, SALINA, KS)
INCA BOYS (DENVER, COLO)
ELM STREET CRIPS (WICHITA, KS)
EAST SIDE POSSE (DODGE CITY, KS)
SPRUCE PARK GANGSTER (WICHITA, KS)
WAR PIGS CRIPS (VALINTINE, NEB)
107 CRIPS (TULSA, OKLA)
CASA BLANC CRIPS (CALIFORNIA)
SPANISH DISCIPLES (GOODLAND, KS)
ORIENTAL BOYS (SACRAMENTO, CAL)
BLUE DEVIL CRIPS (WICHITA, KS)
GRAPE STREET CRIPS (WICHITA, KS)
EAST COAST CRIP (LITTLE ROCK, ARK)

Youth Center at Larned Work Program

Sarah Lloyd

Activity Therapy Specialist II

Through the acquisition of a Special Project Vocational Instructor position, the Youth Center Industrial Program incorporated a new program segment with the beginning of the 1993-1994 school term. The Work/Study Wood Production Class is taught on a nine-week basis during a three-hour block each school day with the students earning academic credit with acceptable performance. The class is designed to teach Youth Center students the work ethic and job entry-level skills to enable them to seek gainful employment upon leaving the Youth Center. The class is conducted by the Special Project Vocational Instructor and supervised academically by a Westside School certified teacher. The pilot project was started with four students assigned to a three-hour afternoon block. Through October 22, the four students have worked a total of 294 actual hours. The Westside teacher/supervisor and the Special Project Vocational Instructor have indicated the program is showing a successful progression toward the initial class goals.

In addition to this Special Project, the Youth Center has many other components contributing to the total Work Program. Throughout Fiscal Year 1993, an average of 20 students per month participated in on-campus work assignments such as Canteen, Housekeeping, Cafeteria Food Service, Laundry, Greenhouse, Woodshop, and Groundskeeping for a total average of 1,425 hours per month, or an average of 71 hours per student worker per month. Off-campus jobs are utilized as students become eligible to work off-campus, and as work sites are available. On-campus and community positions pay minimum wage per hour. Monies earned by students may be used for payments of court-ordered restitution, purchase of personal clothing, hygiene items, or to apply savings toward living expenses when leaving the Youth Center.

Productions Unlimited is another segment which is engaged in production of decorative wood products for sale to the retail/wholesale market. Proceeds from sales are returned to the Workshop fund which revolves to purchase supplies and materials to maintain the business. Salaries are budget items, but as stated, all supplies and materials are from a revolving fund from sales earnings.

Community service projects are also included in the Youth Center Work Program. An average of 77 hours per month is performed in community service activities. Volunteer hours have been given to the community through Chamber of Commerce activities such as the Antique Show and

Sale; Lions Club Christmas Basket delivery for the needy; Fort Larned National Historic Site as participants in Living History Programs and various work projects within the area; and Social Hour twice per month for residents of the local nursing home.

Staff for the Youth Center program consists of one Industrial Coordinator (Activity Therapy Specialist II), one Vocational Instructor (permanent), and one Special Project Vocational Instructor position.

d/t: 10-28-93

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MEMORANDUM

September 21, 1993

TO: Interested Persons

FROM: Legislative Council Staff

SUBJECT: Legislation Considered During the 1993 Special Session

The purpose of this memorandum is to provide a summary of legislation considered during the 1993 First Extraordinary Session. Twenty-five house bills and eleven senate bills were considered and ten bills were signed into law.

LEGISLATION THAT WAS SIGNED INTO LAW

HANDGUN CONTROL**HB 93S-1001 — Criminal Acts Committed by Juveniles-Rep. Adkins/Sen. Wham**

House Bill 93S-1001 bill bans handgun possession under age 18 and allows hunting and firearms instruction to be exceptions to prosecution. The bill creates the crime of illegal possession of a firearm by a juvenile punishable by a class 2 misdemeanor for the first offense and a class 5 felony for the second offense. The bill also bars adults from furnishing guns to youths and prohibits the possession of weapons by previous offenders for ten years. Youths will serve a minimum of five days in jail for the first offense. Additional provisions include opening the court records in all juvenile delinquency proceedings where the juvenile is charged with three or more offenses that would constitute class 1, 2, 3, or 4 felonies and a rebuttable presumption that a juvenile be tried as an adult under certain circumstances. The bill also amends from 90 to 60 days concerning the time in which a juvenile must be tried on the charges on which bail is denied or the bail or bail bond is revoked or increased.

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CORRECTIONS

HB 93S-1005 — Regimented Juvenile Training Program-Rep. Coffman/Sen. Owens

House Bill 93S-1005 requires the Department of Institutions to develop and implement a three-phase regimented juvenile training program of a specified size. The three phases would be a disciplined training phase (boot camp), an intermediate supervision phase, and a community reintegration phase. The Department is directed to contract with a private entity to establish an appropriate program. On or before December 1, 1996, the Department is required to submit a report to the Governor, the Speaker of the House, the President of the Senate, and the Joint Budget Committee evaluating the program. The bill permits the court to sentence any juvenile 12 years or older to no more than 45 days in the regimented training program. Alternative sentencing guidelines are outlined. Any juvenile adjudicated a juvenile delinquent for an offense which is a misdemeanor shall be sentenced to a minimum mandatory period of detention of not less than five days. Renovation of four cottages at Lookout Mountain would be used for purposes of housing the regimented juvenile training program.

SB 93S-9 — Juveniles Filed With Criminal Charges-Sen. Wham/Rep. Berry

Senate Bill 93S-9 expands the pool of juveniles aged 14 to 17 who can be charged by direct file to those charged with a class 1 or 2 felony or those who are 14 or older and have committed any crime of violence, an offense related to firearms and weapons, or who used a deadly weapon during the commission of a felony offense against the person. Direct file can also be used against those aged 16 to 17 who have been convicted of a class 3 felony and have, within the past two years, been adjudicated a juvenile delinquent for a felony. Under the bill, judges may sentence the juvenile as 1) an adult; 2) to the Youthful Offender System in the Department of Corrections; or 3) to the Division of Youth Services if the juvenile is less than 16 years of age and has committed a class 3, 4, or 5 felony. The bill eliminates the option of a district court judge from sentencing a juvenile to the Division of Youth Services if charges have been direct filed. If convicted, these juveniles are to be sentenced as adults or to the Youthful Offender System in the Department of Corrections.

Senate Bill 93S-9 directs the Department of Institutions to move forensic patients now housed in the Colorado Mental Health Institute at Pueblo campus to another building. The Department of Corrections is also directed to renovate several buildings and move restricted-minimum security inmates now housed at the Denver Reception and Diagnostic Center once these buildings are renovated.

PARENTAL LIABILITY

HB 93S-1002 — Parents Required to Attend Legal Proceedings-Rep. Morrison/Sen. Owens

House Bill 93S-1002 requires parents or guardians of juvenile suspects to appear at all court hearings for their children, subject to contempt of court. The bill makes allowances for parents or guardians who show good cause for failure to appear at the hearings. These allowances include: not having physical custody of the child and residing outside of Colorado; having physical custody of the child, but residing outside of Colorado and appearing in court will result in undue hardship; residing in Colorado, but is outside of the state at the time of the juvenile proceeding for reasons other than avoiding appearance, which will result in undue hardship. The bill specifies that a parent does not include a person whose parental rights have been terminated or the parent of an emancipated minor. The nonappearance of a parent, guardian, or person with whom the child resides shall not be the basis for a continuance.

COURTS

HB 93S-1014 — Eighteenth District Judge Increase-Rep. Schauer/Sen. Blickensderfer

House Bill 93S-1014 adds one district judge in the 18th Judicial District, which includes four counties (Arapahoe, Douglas, Elbert and Lincoln). The bill appropriates \$175,171 and 3.4 FTE for the implementation of the act.

HB 93S-1017 — Youthful Offender System Surcharge-Rep. Armstrong/Sen. Ruddick

House Bill 93S-1017 doubles any court fines levied against juveniles convicted as adults of violent crimes and uses the additional money to pay for programs in the Youthful Offender System. Moneys will cover the direct and indirect costs associated with the rehabilitation, education, and treatment of juveniles sentenced to the Youthful Offender System. Five percent of the surcharge is to be used to defray administrative costs and the remainder is to be credited to the Youthful Offender System Surcharge Fund. The bill specifies that the surcharge is to be collected in the same manner as a judgment in a civil action. The district attorney is authorized to institute proceedings to collect the surcharge if the juvenile is financially unable to pay such surcharge.

HB 93S-8 — Juvenile Delinquency Court Records to Public-Sen. Owens/Rep. Coffman

Senate Bill 93S-8 opens records of juveniles charged with serious felonies to public scrutiny, including the names of a juveniles' parents or guardians. This would apply to any juvenile delinquency proceeding where a juvenile is charged with a class 1,2,3, or 4 felony. The bill establishes that basic identification information contained in court records in any juvenile delinquency proceeding wherein a juvenile is charged with a class 1,2,3, or 4 felony shall be open to the public.

LOCAL GOVERNMENT

HB 93S-1018 — County Ordinances Authority-Rep. Tucker/Sen. Schroeder

House Bill 93S-1018 gives counties additional powers to adopt ordinances relating to juvenile curfews, loitering by juveniles, and placement of graffiti. The bill is intended to discourage juvenile delinquency and potential gang violence in unincorporated areas by providing specific authority for counties to impose these types of ordinances.

PREVENTION

HB 93S-1004 — Supplemental Appropriation Department of Public Safety-Rep. Foster/Sen. Bishop

House Bill 93S-1004 makes a supplemental appropriation of \$1.2 million to the Department of Public Safety for youth diversion programs administered by the Division of Criminal Justice. The youth diversion programs are community-based alternatives which provide meaningful opportunities to juveniles who might otherwise become involved in the juvenile justice system.

HB 93S-1012 — Supplemental Appropriation to the Department of Social Services-Rep. Gramsas/Sen. Bird

House Bill 93S-1012 authorizes the Department of Social Services to use \$26 million in federal Medicaid rebates to pay to implement the new laws.

LEGISLATION THAT WAS KILLED

HANDGUN CONTROL***HCR 93S-1001 and SCR 93S-1 — Prohibit Possession of Gun under 21-Rep. Tanner/Sen. Groff***

Both concurrent resolutions attempted to place an issue on the next General Election ballot that, if approved, would have prohibited the ownership or possession of any handgun by any person under twenty-one years of age. The General Assembly would be allowed to establish a criminal penalty for violation of the amendment. SCR 93S-1 was postponed indefinitely by the Senate Judiciary Committee, and HCR 93S-1001 was postponed indefinitely by the House State Affairs Committee.

SB 93S-10 — Possession of Handguns by Juvenile-Sen. Mares/Rep. DeGette

Senate Bill 93S-10 banned handgun possession under age 18 and allowed hunting and firearms instruction to be defenses against prosecution. Under the bill, the first offense was a class 2 misdemeanor and the second offense was a class 5 felony. One provision of the bill barred adults from furnishing guns to youths. The bill also widened the net of juveniles that the court may further detain to those committing offenses related to firearms or those committing a crime of violence. The bill would have allowed the court to impose a minimum mandatory period of detention of not less than 10 days for juveniles adjudicated for the commission of an offense related to illegal possession of a firearm. The measure was postponed indefinitely by the Senate Judiciary Committee.

HB 93S-1006 — Crime of Unlawful Sale of Firearm-Rep. Kreutz/Sen. Lacy

House Bill 93S-1006 would have created the crime of unlawful sale of a firearm and established a penalty therefor. Basically, this would have prohibited handgun sales to those under 21, and prohibited rifle or shotgun sales to anyone under age 18. The measure was postponed indefinitely by the Senate Appropriations Committee.

HB 93S-1008 — Gun Possession in Motor Vehicle Offenses—Rep. Pankey/Sen. Bickensderfer

House Bill 93S-1008 would have exposed minors who commit offenses involving guns and vehicles to minimum jail terms and revoked their driver's licenses for five years. If the juvenile had no driver's license at the time of conviction, he or she would have been ineligible to apply for a license or permit for five years. The bill is postponed indefinitely by the Senate Appropriations Committee.

HB 93S-1007 — Criminal Offenses in Handgun Possession—Rep. Gordon

House Bill 93S-1007 created the offense of illegal possession of a handgun by a juvenile and established a penalty and affirmative defenses therefor. The bill also created the offense of furnishing a handgun to a juvenile and established a penalty and affirmative defense therefor. The bill was postponed indefinitely by the House Appropriations Committee.

HB 93S-1025 — Permit to Carry Concealed Weapon—Rep. Clark

House Bill 93S-1025 would have required the issuance of a permit to an applicant for the purpose of carrying a concealed weapon if the applicant meets certain criteria. A sheriff or chief of police issuing such permits would be required to provide a copy of the permit to the Department of Public Safety. The permittee would also be required to carry the permit and valid identification when carrying a concealed weapon. The bill authorized the sheriff or chief of police to charge fees to offset the costs associated with the issuance of permits and for enforcement purposes. Certain areas and circumstances were identified in which a permittee could not carry a concealed weapon. The bill was postponed indefinitely by the House State Affairs Committee.

PARENTAL LIABILITY

HB 93S-1009 — Liability Insurance Adults Providing Guns—Rep. Hagedorn

House Bill 93S-1009 would have required adults who furnish guns to juveniles to carry liability insurance covering all potential victims of any crime committed using such handgun. Failure to obtain this insurance was a class 6 felony. The bill was postponed indefinitely by the House Business Affairs and Labor Committee.

HB 93S-1010 — Liability of Adults for Juvenile Acts—Rep. George

House Bill 93S-1010 would have increased parental liability for damage or injury committed by their children to \$20,000, up from \$3,500. The measure was lost on second reading in the Senate.

HB 93S-1020 — Cost to Parent for Juvenile Care-Rep. Acquafresca/Sen. Owens

House Bill 93S-1020 required the parent, guardian, or legal custodian of a juvenile inmate to submit a financial affidavit form to the Office of the Attorney General. The Attorney General would be authorized to commence an action to collect reimbursement for the cost of care of the juvenile inmate in a correctional facility or on probation under the supervision of the Judicial Department and for the cost of bringing such action. The bill was postponed indefinitely by the Senate Judiciary Committee.

CORRECTIONS

SB 93S-6 — Regimented Juvenile Training Program-Sen. Schroeder/Rep. Agler

Senate Bill 93S-6 created the regimented juvenile training program in the Department of Institutions. Program standards were specified and offenders committed to the Department of Institutions were required to be assigned to the program. After completion of the program, offenders were to be assigned to the Division of Juvenile Parole for a period of supervised parole. Any offender who violated supervised parole would have been returned to the regimented juvenile training program. The measure was postponed indefinitely by the House Appropriations Committee.

SB 93S-1 — Separate Facilities for Juveniles-Sen. Bishop/Rep. Foster

Senate Bill 93S-1 required that juveniles being tried or convicted as adults or awaiting placement in a long-term secure facility not be held in facilities where other juvenile offenders are being held. The authority of the district attorney and defense counsel to agree to keep juveniles who are to be tried as adults in the same facilities as other juvenile offenders was also eliminated. The measure was postponed indefinitely by the Senate Appropriations Committee.

HB 93S-1011 — Detention of Juveniles with Adults-Rep. Allen/Sen. Owens

House Bill 93S-1011 would have maintained the segregation of imprisoned adults and youths, but loosened the prohibition against placing juveniles in detention facilities or temporary holding facilities in which there may be sight and sound contact with confined adult offenders. Jails could receive juveniles for detention without a court order, if at least age 14. An exception to the segregation requirement was provided for adult trustees who have contact with juveniles and who are under the direct supervision of facility staff. Common facility staff would be used for detained juveniles and for confined adult offenders in the same facility. The measure was postponed indefinitely by the House Appropriations Committee.

SB 93S-2 — Placement in Private Minimum Security-Sen. Roberts/Rep. Pankey

Senate Bill 93S-2 authorized the Department of Corrections to enter into contracts with private minimum security prison facility vendors for the purpose of placing juveniles who have violated laws prohibiting the possession of handguns or who have committed other juvenile offenses. The bill was lost on second reading in the House.

SB 93S-7 — Additional Juvenile Housing Capacity-Sen. Johnson/Rep. Tucker

Senate Bill 93S-7 acknowledged that the enactment of legislation relating to the possession of handguns by juveniles and other juvenile offenses required additional juvenile housing. The bill would have directed the Departments of Corrections and Institutions to make necessary renovations to various state facilities in anticipation of the need for additional juvenile housing. It also provided authority to the Department of Corrections to negotiate and contract with counties for juvenile bed space and to construct a juvenile correctional institution. Funds were to be transferred from the general fund to the capital construction fund for the implementation of the act. The measure was postponed indefinitely by the Senate Appropriations Committee.

HB 93S-1019 — Female Juvenile Sentenced as an Adult-Rep. Rupert

Under House Bill 93S-1019, female offenders whose crimes would call for prosecution as adults would serve time in the juvenile system if no separate young women's facility existed under the youthful offender system. The bill was conditional on passage of Youthful Offender System. The bill was postponed indefinitely by the House State Affairs Committee.

JUVENILE VIOLENCE***HB 93S-1003 — Juvenile Violence-Rep. Tony Hernandez***

House Bill 93S-1003 made participation in a gang a crime and the property used by gangs subject to confiscation. The bill also gave police temporary custody of juveniles violating curfew and created a new crime of "negligent storage of a firearm. Cities of more than 100,000 people were required to set up community policing. The measure was postponed indefinitely by the House Appropriations Committee.

SB 93S-4 — Prevention of Juvenile and Gang-Related Crimes-Sen. Ruddick/Rep. Friednash

Senate Bill 93S-4 would have made active participation in gangs a crime and required parents to exercise reasonable control over their children. Under the bill, the state would have been allowed to seize gang property. Longer jail terms were provided for misdemeanor gang-related crimes and cases involving deadly weapons or gangs originally filed in juvenile court were allowed to be transferred to adult court by way of hearings before the judge. The bill was postponed by the House Appropriations Committee.

HB 93S-1021 — Prevention of Juvenile/Gang Related Crime-Rep. Friednash/Sen. Ruddick

House Bill 93S-1021 created the offense of active participation in a criminal street gang and provided a penalty for that participation. Under the bill, a parent or legal guardian would have committed this offense if they recklessly disregarded a juvenile's participation in a criminal street gang. The measure also provided for enhanced sentences for misdemeanors committed for the benefit of, at the direction of, or in association by any criminal street gang. Property used in the furtherance of the criminal gang activity would be declared a class 1 public nuisance. House Bill 93S-1021 would have established factors to be considered by the juvenile court to determine whether to waive jurisdiction over a juvenile for the commission of a delinquent act and transfer the case to the district court. These factors included whether the juvenile used or possessed and threatened to use a deadly weapon in the commission of the act; and whether the juvenile was a member of a gang and the delinquent act was committed in furtherance of gang membership. The bill was postponed indefinitely by the House State Affairs Committee.

COURTS

HB 93S-1023 — Right To Jury Trial Juvenile Delinquency Proceedings-Rep. Agler/Sen. Rlickensderfer

House Bill 93S-1023 would have eliminated the right to a jury trial for any juvenile alleged to have committed a delinquent act, unless the petition alleged that the juvenile is a violent or aggravated juvenile offender. This measure was lost on second reading in the House.

HB 93S-1013 — Justice System For Serious Offenders-Rep. Rob Hernandez/Sen. Gallagher

House Bill 93S-1013 prohibited any district attorney from agreeing to a plea bargain that would reduce a charged offense against a juvenile to any offense that is not a crime of violence if the juvenile was charged with a crime of violence and the district attorney determined that there were serious aggravating circumstances in the commission of the offense. The bill also required that a juvenile who is adjudicated a juvenile delinquent for any specified weapons-related offense be sentenced to a minimum mandatory period of detention. The measure was postponed indefinitely by the House Appropriations Committee.

HB 93S-1016 — Waiver of Juvenile Court Jurisdiction-Rep. Lawrence/Sen. Owens

House Bill 93S-1016 created a rebuttable presumption that a juvenile fourteen years of age or older who allegedly commits a crime of violence using a firearm will be tried as an adult. The bill was postponed indefinitely by the House Appropriations Committee.

HB 93S-1015 — Add Aggravator Death Penalty-Rep. Entz/Sen. Blickensderfer

House Bill 93S-1015 provided that any person who is convicted of a class 1 felony and is under age 18 may be sentenced to death or life imprisonment if the jury determines that the person was a gang member at the time of commission of the offense. The bill established procedures by which the jury may determine whether a person convicted of a class 1 felony was a gang member at the time of commission of the offense. The measure was postponed indefinitely by the House Judiciary Committee.

PREVENTION

SB 93S-5 — Intensive Family Preservation Programs-Sen. Mendez/Rep. George

Senate Bill 93S-5 required the investigating officer in a presentence investigation of juvenile offenders eligible for sentencing to the youthful offender system, to assess whether it is likely that probation would be recommended if intensive family preservation services were provided to the juvenile. The Departments of Corrections and Institutions were required to develop and implement an intensive family preservation program. The bill was postponed indefinitely by the House Appropriations Committee.

HB 93S-3 — Feasibility Study Statewide Program Chronic and Recidivist Juveniles-Sen. Thiebaut/Rep. Greenwood

Senate Bill 93S-3 directed the Department of Public Safety to establish a task force to study the feasibility of establishing a statewide expedited juvenile prosecution, disposition, and punishment program for chronic and recidivist juvenile offenders. The bill was postponed indefinitely by the House State Affairs Committee.

SB 93S-11 — Reward for Information Leading to Criminal Case-Sen. Martinez/Rep. Benavidez

Senate Bill 93S-11 directed the Department of Public Safety to establish a confidential reward program which provides for the payment of a reward in a specified amount to any person who is directly responsible for providing information which leads to the filing of a criminal case against any juvenile who discharges a handgun that results in physical injury or death of another person. The bill was postponed indefinitely by the House Business Affairs and Labor Committee.

HB 93S-1024 — Supplemental Appropriation to Judicial Department-Rep. Kaufman

House Bill 93S-1024 would have made a supplemental appropriation to the Judicial Department to obtain the services of judicial personnel who are needed to expedite the prosecution of juveniles. The measure was postponed indefinitely by the House Appropriations Committee.

LOCAL GOVERNMENT

HB 93S-1022 — County Power to Adopt Juvenile Ordinances-Rep. Snyder

House Bill 93S-1022 was similar to House Bill 93S-1018 and would have given counties additional powers to adopt ordinances relating to juvenile curfews, loitering by juveniles, and placement of graffiti. The bill was postponed by the House Business Affairs and Labor Committee.

For further information, please contact
Jim Hill or Carl Jarrett, 866-3521.

VOTE TALLY

These are the final votes to readopt the compromise version of HB 1001, the bill that makes it illegal for juveniles under the age of 18 to carry handguns except for hunting, target shooting and other adult-supervised training.

HOUSE: 54-8 REPUBLICANS (34)

Voting yes (24): Jeanne Adkins, Parker; Vickie Agler, Littleton; Debbie Allen, Aurora; Norma Anderson, Lakewood; Chuck Berry, Colorado Springs; Ken Chlouber, Leadville; Drew Clark, Boulder; Mike Coffman, Aurora; Jeanne Fastz, Denver; Faye Fleming, Thornton; Tim Foster, Grand Junction; Tony Grampas, Evergreen; Bill Jerke, LaSalle; Bill Kaufman, Loveland; Martha Kreutz, Littleton; Michelle Lawrence, Arvada; Bill Martin, Colorado Springs; Dave Owen, Greeley; Penn Plifner, Lakewood; Tom Ratterree, Colorado Springs; Paul Schauer, Littleton; Pat Sullivan, Greeley; Jack Taylor, Steamboat Springs; Shireen Tucker, Lakewood.

Voting no (8): Steve Aquafresca, Cedaredge; Charles Duke, Monument; Lewis Entz, Hooper; Russ George, Rifle; Ron May, Colorado Springs; Bud Moellenberg, Kirk; Phil Pankey, Littleton; Mike Salaz, Trinidad.

Excused (2): Mary Ellen Epps, Colorado Springs; Marcy Morrison, Manitou Springs.

DEMOCRATS (31)

Voting yes (30): Don Armstrong, Aurora; Celina Benavidez, Denver; Mary Blue, Longmont; Diana DeGette, Denver; Jim Dyer, Durango; Bob Eisenach, Fort Morgan; Doug Friednash, Denver; Ken Gordon, Denver; Daphne Greenwood, Colorado Springs; Bob Hagedorn, Aurora; Rob Hernandez, Denver; Vi June, Westminster; Moe Keller, Wheat Ridge; Peggy Kems, Aurora; Wayne Knox, Denver; Glenda Swanson Lyle, Denver; Mildred Mattingly, Pueblo; Alice Nichol, Denver; Jim Pierson, Arvada; Dan Prinster, Grand Junction; Jeannie Reeser, Thornton; Peggy Reeves, Fort Collins; Gil Romero, Pueblo; Dorothy Rupert, Boulder; Bob Shoemaker, Canon City; Carol Snyder, Northglenn; Bernie Strom, Fort Collins; Gloria Tanner, Denver; Sam Williams, Breckenridge; Ruth Wright, Boulder.

Voting no (0):
Excused: Tony Hernandez, Denver.

SENATE: 26-9 REPUBLICANS (19)

Voting yes (14): Mike Bird, Colorado Springs; Tillie Bishop, Grand Junction; Tom Blickensderfer, Englewood; Sally Hopper, Golden; Elsie Lacy, Aurora; Al Melklejohn, Arvada; Dick Mutzebaugh, Highlands Ranch; Tom Norton, Greeley; Bill Owens, Aurora; Bob Schaffer, Fort Collins; Bill Schroeder, Morrison; Claire Traylor, Wheat Ridge; Jeff Wells, Colorado Springs; Dottie Wham, Denver.

Voting no (5): Don Arment, Ilti; Ray Powers, Colorado Springs; Jim Roberts, Loveland; MaryAnne Tebedo, Colorado Springs; Dave Watenberg, Walden.

DEMOCRATS (16)

Voting yes (12): Lloyd Casey, Northglenn; Sam Cassidy, Pagosa Springs; Michael Feeley, Lakewood; Dennis Gallagher, Denver; Regis Groff, Denver; Joan Johnson, Adams County; Don Mares, Denver; Bob Martinez, Commerce City; Jana Mendez, Boulder; Ray Peterson, Denver; Steve Ruddick, Aurora; Bill Thiebaud, Pueblo.

Voting no (4): Bob Pastore, Monte Vista; Linda Powers, Crested Butte; Jim Rizzuto, Swink; Paul Weismann, Louisville.

pass at session

By The Denver Post

The Colorado Legislature passed 10 bills out of a total of 36 introduced for its five-day special session.

The two key items in the package are HB 1001, a bill to keep handguns out of the hands of minors, and SB 9, a measure to create an intermediate type of detention system for violent criminals ages 14 to 18.

Both of those bills passed in final form shortly before noon yesterday. A summary of the week's action:

BILLS PASSED

■ HB 1001, making it illegal for youths 18 and under to carry handguns, unless they are going hunting or are training under adult supervision.

■ HB 1002, requiring parents to be at juvenile court hearings.

■ HB 1004, allotting \$1.2 million to expand programs for troubled kids.

■ HB 1005, adding a second boot camp for detention of young offenders.

■ HB 1012, freeing up \$26 million in Medicaid funds repaid to state by federal government.

■ HB 1014, adding a judge in the 18th Judicial District (four counties, including Arapahoe and Douglas).

■ HB 1017, increasing fees on young offenders to finance the juvenile justice system.

■ HB 1018, letting counties adopt ordinances against loitering, graffiti and other gang-related infractions.

■ SB 8, opening juvenile court proceedings to the public in more serious offenses.

■ SB 9, creating the "Youth Offender System," a new intermediate corrections alternative for violent offenders ages 14 to 18.

BILLS KILLED

■ SB 1, requiring that violent offenders be separated from other juvenile prisoners.

■ SB 2, allowing juvenile offenders to be housed in private prisons.

■ SB 3, to study the feasibility of a statewide program for chronic juvenile offenders.

■ SB 4, making participation in a criminal street gang a Class 1 misdemeanor (most severe type).

■ SB 5, creating an intensive family-preservation program.

■ SB 6, another boot-camp program.

■ SB 7, another approach to acquiring more detention space.

■ SB 10, the Democrats' version of comprehensive gun control.

■ SB 11, rewards for information leading to juvenile convictions on gun charges.

■ HB 1003, another comprehensive anti-gang bill.

■ HB 1006, a state counterpart to a federal law making it illegal to sell firearms to minors.

■ HB 1007, yet another version of the handgun ban.

■ HB 1008, suspending driving privileges for youths who use vehicles to commit violent crimes.

■ HB 1009, requiring parents who buy guns for their children to buy liability insurance covering possible gun-related damages.

■ HB 1010, increasing parent or guardian civil liability for injuries caused by juvenile offenders.

■ HB 1011, eliminating a ban against confining juveniles with adults.

■ HB 1013, to restrict plea-bargaining in serious juvenile crimes.

■ HB 1015, permitting the death penalty to be used against a convicted murderer younger than 18.

■ HB 1016, a legal presumption that anyone 14 or older who commits a violent gun crime will be tried as an adult.

■ HB 1019, allowing violent juvenile offenders who are female to be placed in youth facilities if no intermediate-level space is available.

■ HB 1020, charging parents for costs of juvenile detention.

■ HB 1021, making it illegal to be a member of a criminal street gang.

■ HB 1022, another bill giving counties new anti-gang powers.

■ HB 1023, allowing exceptions to a juvenile's right to a jury trial.

■ HB 1024, a supplemental appropriation to the state judicial department.

■ HB 1025, a uniform statewide law on concealed weapons.

A COLORADO PARTNERSHIP AGAINST VIOLENCE

Governor Roy Romer

July, 1993

Violence, particularly involving young people, is becoming a pervasive problem in all of Colorado. The problem is growing rapidly because of the increased use of handguns by the young and the increasing number of gangs. This is a crisis of our entire community, not just our youth. To end this crisis, we must work together -- at all levels of government, but most importantly on a neighborhood by neighborhood basis.

Because of my deep concern about this violence, I have spent the last several weeks meeting with, and talking to, the people who work to prevent violence. These have included community leaders, clergy, chiefs of police, judges, sheriffs, district attorneys, elected officials, and corrections officials. I met with these people because I wanted to have the benefit of the knowledge and feelings of the people closest to the problem. I wanted to understand if the problems in Denver were different than those in Pueblo or on the Western Slope. I wanted to understand the nature of the juvenile violence phenomenon, and why existing efforts to prevent it have not been successful.

I have developed a 14-Point Plan for a Colorado Partnership Against Violence. This strategy is based on the need to achieve three essential goals.

Goal No. 1: Juveniles must know that we will not tolerate violence, and that a violation of the law will result in immediate and serious consequences.

Goal No. 2: People must feel safe in their own neighborhoods, in their parks, in their places of employment and on their streets. It is a basic right of citizens to be safe everywhere.

Goal No. 3: We must take responsibility for creating environments in which young people can make positive, non-violent choices for their future.

Our first goal must be to show juveniles that a violation of the law will result in immediate and serious consequences. Today, that is not the case in Colorado. Our juvenile justice system was designed at a time when juveniles were committing much less serious offenses. The purpose and goal of the system was to rehabilitate

children using the least intrusive means. Although this goal is laudable, we must recognize that there are certain acts which merit strict punishment, and that those acts have become more severe and more frequent. We must continue our efforts to identify kids who need special help to steer them away from criminal behavior. At the same time, the penalties imposed under the juvenile code for some offenders are too lenient. We must strengthen these penalties.

Juveniles committing more serious crimes are currently sent into the same system in Colorado as less serious offenders. Consequently, juveniles who are committing criminal acts do not respect the system and do not expect to be sanctioned. For juveniles in gangs, this short term incarceration is often a badge of honor, not punishment.

Our second goal must be to make people feel safe in their own neighborhoods. The violence making headlines every day around our state is intimidating people and making them feel unprotected. In some neighborhoods, children are forced to ride their tricycles in the basement. In these areas, people cannot sit on their front porches, and are targets for drive-by shootings as they watch television. Mothers are afraid to take their babies to the park. People are asking the basic question of whether the police can protect them, and they are afraid to trust each other.

We must join together to stop the violence and allow people to feel safe in their homes again. We must give law enforcement additional help to keep the streets safe. Most importantly, however, we all must send a message that violent behavior by our youth is unacceptable, and that we are going to preserve the sanctity of our homes and neighborhoods.

Our third goal recognizes that we must take responsibility for creating environments in which young people can make positive, non-violent choices for their future. Many juveniles lack appropriate, adult role models, particularly males, and often have little family structure or support. Gangs are a substitute for these critical elements in the lives of these children. In addition, juveniles attracted to, and drawn into, gangs are most often living in poverty, and they see criminal behavior as their only true avenue to financial security, status, and power. An increasing number of juveniles are being victimized by other juveniles, and children are being victimized by adults. Families struggling to keep their children out of gang activity lack resources, both financial and community-based, to provide for the needs of such children, especially ages 12 through 15.

Any long term solution to this problem will require commitment from both the private and public sectors. In addition to any new efforts we undertake, we must rededicate ourselves to the current work we are doing in this state in certain areas, such as early childhood development and community building, through projects like the Build a Generation Program.

We must all work together to accomplish these three goals. Each person in this state must take action to fight juvenile violence. As local governments plan their futures they must include care for their youth in their master plans. The time to start is now.

A 14-POINT PLAN FOR
A COLORADO PARTNERSHIP AGAINST VIOLENCE

Governor Roy Romer
July, 1993

1. I propose that we revise our state laws to make it illegal for a juvenile to possess a handgun and that we enforce this new law with immediate tough sanctions.
2. I propose the creation of a new Colorado reformatory system, called a Youthful Offender System, as an interim step of incarceration between the present juvenile system and the adult corrections system. Juveniles between the ages of 14 and 18 committing crimes of violence, crimes involving guns, and gang-related criminal activity would be incarcerated in this new system.
3. I propose that the Colorado Organized Crime Control Act be used to prosecute gang activity.
4. I propose several changes to the court process to allow for the expedited prosecution and sentencing of juvenile offenders.
5. I propose that we expand the ability of our juvenile incarceration system to sanction offenders so that juveniles face immediate consequences for their offenses.
6. I propose revisions to state law to make it illegal for an adult to furnish a handgun to a juvenile; to strengthen our present law on concealed weapons; and to license firearms dealers at the state level.
7. I propose that we strengthen our protections for the confidentiality of witnesses to prevent witness intimidation.
8. I propose that we work with the FBI and other law enforcement agencies to strengthen existing gang information networks and that we explore using interstate compacts to prevent criminals, particularly those involved with gang activity, from moving across state lines anonymously.
9. I propose enactment of a law to allow for the revocation of a driver's license or to prohibit a juvenile from obtaining a driver's license upon the commission of certain juvenile offenses.
10. I propose that the state assist local law enforcement with their immediate needs to ensure public

safety thorough targeting federal funds and providing equipment where possible.

11. I propose the organization of a statewide effort, called The Colorado Partnership Against Violence, to help local communities organize themselves and take back their neighborhoods.

12. I propose that our state government commit to hiring at-risk, young people in work programs to teach them skills to help them get long term jobs. I will call on businesses also to provide jobs and training for at risk young adults.

13. I propose that we develop a system to evaluate and coordinate current prevention and intervention programs, and to provide a clearinghouse of information on these programs.

14. I propose that we target specific community-based, prevention and intervention programs by working with the private sector and federal government to fund programs that provide services such as mentoring, job skill development, substance abuse prevention, transition for juveniles back into the community, and early childhood development.

A 14-POINT PLAN

1. I propose that we revise our state laws to make it illegal for a juvenile to possess a handgun and that we enforce this new law with immediate tough sanctions.

Children, especially teens, have always had disputes that led to physical confrontation. In the past, some disputes resulted in a fist fight. Now, the stakes are much higher; at an alarming rate, these disputes are being settled with guns. The increased power of gangs in our neighborhoods also is attributable to the availability of guns.

Many municipalities have enacted (or are in the process of enacting) a number of ordinances regarding firearms. While this is helpful, local governments are limited to establishing misdemeanor offenses, with relatively light penalties. Currently, state law prohibits the carrying of a concealed weapon, but it is not illegal simply to possess a weapon.

To break the back of gangs and to keep children from killing children, I believe it is important to have a statewide law prohibiting handgun possession by young people, with tough enforcement of that law. My proposal is as follows:

a. We should enact a law making it illegal for juveniles to possess handguns unless they have obtained a permit from the chief of police or sheriff for limited activities such as hunting or supervised training.

b. I propose that the statute apply to the all counties with more than 20,000 in population. Local governments would also have the ability to enact stricter laws than the state if they wish. Counties or municipalities with less than 20,000 in population would have the ability to opt in to the state statute, or to enact less stringent gun laws.

c. We should strictly enforce this new law through immediate, tough sanctions. To assist in the enforcement of this new law, I propose the assignment of a weapons judge in metropolitan jurisdictions to hear juvenile cases involving gun possession on a priority basis.

For this crime, juveniles would be subject to immediate arrest and would be detained until a hearing could be held to set bail. Upon conviction,

such an offender would receive a mandatory 45 days in detention. Offenders could receive a suspended sentence if they participated in a 10 day, intensive work supervision program. Under this program the judge could require certain distinguishing clothing to be worn by the offenders, such as yellow jumpsuits, to remove any glamour or status associated with an arrest. If an offender failed to complete this 10 day program, he would be required to serve his original 45 day sentence.

I recognize Colorado's desire to maintain citizens' right to own guns. However, I believe we must take special precautions with our young. Just as we prohibit them from driving until we believe they are competent to handle a car, and just as we prohibit young adults from drinking until we believe they are responsible enough to handle alcohol, so must we restrain children from possessing guns until they reach a responsible age.

2. I propose the creation of a new Colorado reformatory system, called a Youthful Offender System, as an interim step of incarceration between the present juvenile system and the adult corrections system. Juveniles between the ages of 14 and 18 committing crimes of violence, crimes involving guns, and gang-related criminal activity would be incarcerated in this new system.

For juveniles to take the justice system seriously, we must create sanctions which are immediate and serious. Currently, the juvenile justice system applies to all children under the age of 18. In most cases, the maximum sentence that can be imposed is two years -- for all levels of offenses, from burglaries to rapes to most murders. After those two years, a judge can resentence that juvenile to two additional years, for a total of four years, but that rarely happens. Also, little flexibility exists in the system to treat juveniles who commit more serious crimes differently than others. Given the types of serious offenses being committed by some young people today, it no longer makes sense to treat all juveniles the same.

The new Youthful Offender System would be used for juveniles aged 14 to 18 who commit certain serious and violent offenses. The system would recognize the need for separate, specialized treatment and penalties for certain offenders who are not sanctioned appropriately today in the juvenile system, and for whom the adult corrections system is also not fully appropriate.

The key elements of the Youthful Offender System would be as follows:

- a. The system would be for juveniles ages 14 to 18.

b. The system would be a part of the Colorado Department of Corrections, which is the adult corrections system in Colorado. The current juvenile system is the Division of Youth Services in the Colorado Department of Institutions.

c. The system would be structured as a sanction for those juveniles who have committed crimes of violence, crimes involving firearms, or gang-related criminal activity. Juvenile offenders, age 14 and older, who have committed Class 1 felonies -- first degree murder -- would continue to be sentenced into the adult corrections system as under current law. Current law would be revised, however, so that juveniles who have committed Class 2 and Class 3 felonies that are crimes of violence could be sentenced into either the Youthful Offender System or the adult corrections system, at the discretion of the district court judge.

d. To seek a commitment of a juvenile who met both the age and crime criteria to the Youthful Offender System, a district attorney would have the authority to directly file the case in district court. District courts would then have the authority to sentence these offenders into the Youthful Offender System rather than into adult corrections. A district court judge would also have the authority to sentence a juvenile offender to the juvenile system if the judge determined that to be more appropriate.

Current law allows a district attorney to file a case directly in district court for youths aged 14 and older who are charged with a Class 1 felony, and youths aged 16 and older who are accused of committing a Class 2 or 3 felony that is a crime of violence. This change would expand the district attorney's authority to file juvenile cases directly in district court to include juveniles as young as 14 who have committed crimes of violence, crimes involving a firearm, and gang-related criminal activity.

e. Judges hearing juvenile cases, which have not been directly filed in district court but which meet the criteria for the Youthful Offender System, would have the authority to transfer those cases to district court.

f. A mandatory supervision period would be imposed after a juvenile is released from the Youthful Offender System, similar to intensive supervision parole which exists today in the adult corrections system. An offender who violates the requirements

of this mandatory supervision could be recommitted to the Youthful Offender System, or could be committed directly to the adult correctional system, if approved by a district court judge.

g. Sentences in this system would be longer and would reflect the seriousness of the offense. The sentencing range would be from 1 to 5 years. No earned time or good time credit could be applied to reduce these sentences. Juveniles who reach the age of 18 while serving their sentence would remain in the system until their sentence was completed.

h. The Youthful Offender System would have specialized training and education programs targeted toward youthful offenders, including physical and personal discipline and vocational skills development.

i. The Youthful Offender System would initially house up to 200 juveniles and would be located at one site in a segregated facility. In the short term, I propose that we convert several vacant buildings at the Colorado Mental Health Institute in Pueblo to a 200-bed facility to be used for the Youthful Offender System. For the long term, I propose constructing a new facility at Camp George West (west of Denver), which is on land currently owned by the state and occupied by the National Guard. We could construct a 300-bed facility for the Youthful Offender System at this site by the Spring of 1995. Once the Youthful Offender System is moved to Camp George West, the Pueblo beds could be used either as surplus Youthful Offender System beds or as a medium security facility for the Department of Corrections.

3. I propose that the Colorado Organized Crime Control Act be used to prosecute gang activity.

Other states waited too long to take serious action against gangs, and found it much more difficult to deal with gangs once they became well established. We must break the back of gangs in Colorado now before they become entrenched. To do that, we need to make it unprofitable for the gangs to do business here. One way is to lessen the gangs' ability to recruit young members through strict enforcement of a new, tough gun law on possession of guns by juveniles and by the development of the Youthful Offender System. We also can use our state law, the Colorado Organized Crime Control Act, which works like the federal organized crime law.

State law currently provides strong penalties for "patterns of racketeering activity." Racketeering

activity means to commit, to attempt or conspire to commit, or to solicit, coerce, or intimidate another person to commit specific crimes. These crimes include offenses against the person, such as murder and assault, offenses against property, such as robbery and theft, and certain offenses relating to firearms and weapons.

Violations of this act are treated seriously. They are Class 2 felonies, and the penalties include the forfeiture of property as well as fines and incarceration. Gang activity is no different than other organized crime and it should be treated as such.

I call on all district attorneys in this state to use this statute whenever possible to prosecute gang members.

4. I propose several changes to the court process to allow for the expedited prosecution and sentencing of juvenile offenders.

In addition to the creation of a Youthful Offender System for the most serious crimes committed by juveniles, we must expedite the court process so that juveniles receive immediate punishment even for first offenses. The key elements of this expedited process are as follows:

a. I propose that more judges, magistrates, and probation officers be dedicated to prosecuting juvenile offenders both for the juvenile system and the new Youthful Offender System. I would support the creation of a special docket for those juveniles committing crimes of violence, crimes involving a firearm and gang-related criminal activity.

b. I propose that we grant judges hearing juvenile cases more authority to transfer cases to district court, by expanding the criteria under which transfer can occur, and by creating a presumption for transfer for certain crimes, such as those which involve a handgun.

c. I propose that we create a system to identify and establish work programs to which minor offenders, including municipal juvenile offenders, could be immediately assigned for minor offenses. Many juveniles, including juveniles in the municipal courts, are charged with relatively minor offenses, such as shoplifting, traffic violations, and others. These offenses, however, often lead to more serious crimes. We need a mechanism by which constructive punishment can be imposed to help deter these offenders from further criminal activity. The programs would be work programs of short duration (1 day to 1 week) and would be available to both

juvenile courts and municipal courts dealing with juvenile offenders.

d. I propose that we identify gang members in the justice system, similar to the current identification of domestic violence offenders, so that they are evident as they move in and out of the court system.

5. I propose that we expand the ability of our juvenile incarceration system to sanction offenders so that juveniles face immediate consequences for their offenses.

The current overcrowding in our juvenile system has loosened the teeth of juvenile sanctions. Juveniles know that the consequences for their actions are limited by the state's lack of correctional resources. Law enforcement officers and the courts also are often reluctant to intervene with juveniles when they know that the consequences lack teeth. In recent years, the Division of Youth Services has been forced to deal with violent, hard-core youths. This has detracted from its original mission of treatment of at-risk juveniles. With the establishment of a Youthful Offender System, DYS will no longer be burdened with the hard-core criminals and will be able to refocus its energies on treatment of youths. Therefore, I recommend the following changes in the state's corrections services.

a. Expansion of home monitoring. For non-violent offenders who do not pose a serious security risk, increased use of electronic monitoring and other home detention systems should be established. These types of programs require families to become involved in the treatment of a juvenile, which is a crucial step in treating juvenile offenders. A monitor is able to keep close tabs on an offender to ensure he or she is at school, work or home at the appropriate time.

b. Boot camps. Some youths require intensive training and supervision, including discipline. I propose that we consider expanding the current boot camp in the juvenile corrections system, and consider the inclusion of a boot camp in the Youthful Offender System. For any boot camp system to be successful, we must include follow up service, including transition, job training and education. We also currently operate a number of community conservation camps. We should make service in these camps a sentencing alternative for juveniles.

c. Intensive Supervision Probation. We must increase our intensive, supervised probation system for juveniles. In this process we should identify

potential gang members and target them with intensified supervision and treatment. This program would be modeled after the existing pilot program for juveniles and the adult supervised probation system.

6. I propose revisions to state law to make it illegal for an adult to furnish a handgun to a juvenile; to strengthen our present law on concealed weapons; and to license firearms dealers at the state level.

We must hold those who provide guns to juveniles responsible for their actions. We now have more than 5,000 licensed gun dealers in Colorado, and an unknown number of non-licensed individuals who either sell or provide guns to minors. Again, just as we hold liquor stores responsible for selling alcohol to minors, we must hold gun dealers responsible for selling to minors, and we must penalize any adult who provides a gun to a minor. I propose the following changes:

a. I propose the enactment of a statute making it illegal for an adult to sell, trade, give, provide or transfer a handgun to individuals who are under age eighteen unless the juvenile has a lawful permit. This law should apply to individuals who have "reasonable cause" to believe an individual is under eighteen.

b. I propose strengthening the current state statute prohibiting the carrying of concealed weapons.

I propose increasing the penalty for carrying a concealed weapon by imposing a mandatory, minimum 45-day sentence for carrying a concealed weapon. We should also make carrying a loaded weapon in a motor vehicle a violation of the concealed weapon statute. Violation of this provision would result in a suspension of the offender's driver's license for 3 to 6 months for first-time offenders and 1 year for second-time offenders.

c. I propose that the state license firearms dealers and impose regulations on them.

Although gun dealers are registered with the federal government and are regulated by some local governments, the state currently does not license gun dealers. Any fees generated from such licensing should be used for violence prevention programs. We must tighten the requirements for gun dealers and limit their locations. For example, many gun dealers are located in close proximity to schools. Legislation also should be enacted restricting the

location of gun dealers so that they are not located near a public school.

7. I propose that we strengthen our protections for the confidentiality of witnesses to prevent witness intimidation.

To ensure safety of people who testify against gang members, the laws on confidentiality of witnesses must be strengthened. In addition, we must encourage former gang members to provide evidence, without fear of reprisal. To do this, we must allow prosecutors to withhold the addresses and telephone numbers of victims or witnesses in cases where fear of intimidation or the need for protection exists.

8. I propose that we work with the FBI and other law enforcement agencies to strengthen existing gang information networks and that we explore using interstate compacts to prevent criminals, particularly those involved with gang activity, from moving across state lines anonymously.

There is currently no national system for identifying and tracking gang members who cross state lines. The Colorado Bureau of Investigation currently maintains a computerized Statewide Gang Index and Tracking System used to identify people and vehicles associated with gangs in Colorado. CBI has been working with the FBI to become the first state agency in the nation to pilot a program for the implementation of a national gang network. We must begin establishment of such a national gang information network.

In the meantime, we must work with other states -- particularly our neighboring states, states along the I-70 corridor, and California -- to coordinate our efforts and to provide information on known gang members. I will explore the possibility of a regional interstate compact to formalize such an effort.

9. I propose the enactment of a law to allow for the revocation of a driver's license or prohibit a juvenile from obtaining a driver's license upon the commission of certain juvenile offenses.

I propose revoking drivers' licenses or denying licenses for juveniles who commit crimes of violence, crimes involving a firearm or crimes involving gang activity. If the juvenile can show that he or she needs an automobile to attend school or to work, we should issue limited permits for those purposes.

10. I propose that the state assist local law enforcement with their immediate needs to ensure public

safety through targeting federal funds and providing equipment where possible.

We must help local governments and their law enforcement officials in making people feel safe in their neighborhoods. People should no longer be required to choose between cooperating with the police or cooperating with gangs. Police protection, of course, is chiefly a local responsibility, and some funding is available from the federal government. The state can help by targeting resources to communities in need and helping communities implement public safety programs.

a. Targeting federal financial assistance. The federal government has committed funding to assist law enforcement, particularly in the area of drug control. The state plays an important role in selecting community programs to receive those funds, and working with communities to implement those programs. The following programs, using federal funds, are being coordinated by the state:

(1) The federal Bureau of Justice Assistance in the U.S. Department of Justice provides funding to the state, which the state then distributes to local communities, for substance abuse prevention programs. This program recognizes that the distribution of illegal substances and juvenile violence are often related. The state Office of Drug Control and Systems Improvement distributes these funds, and its advisory board, appointed by the Governor, has chosen to fund the following programs throughout the state: 16 demand reduction programs, 13 drug task forces, 3 crime prevention programs, 6 criminal apprehension programs, 4 corrections programs, 3 treatment programs, and 13 grants to improve drug enforcement technology systems.

Local governments throughout the state have been awarded funding this year through this program. However, approximately \$300,000 remains available to be distributed to Denver, which has not yet been awarded funding. My administration will be working closely with Denver to develop a plan which can be funded to assist in combating both drugs and gang violence in Denver.

This advisory board has found that one key to the success of existing plans throughout the state is the concept of community policing, which takes us back the days of a "cop on the beat." Under the community policing model,

officers are assigned to specific neighborhoods and establish store front operations. This allows the police to know the people and to become known in the community. This kind of relationship is important in building the necessary trust between the police and citizens, particularly when they are combating a problem as complex as juvenile violence. For this reason, I support the community policing concept, and will work with Denver and other communities throughout the state to implement these types of programs.

(2) An initiative out of the Governor's Office, Communities for a Drug Free Colorado (CDFC), in existence since 1987, also has been a successful mechanism for distributing needed federal funds throughout the state to combat illegal drug use. This initiative oversees grants for substance abuse prevention activities throughout Colorado. In the last year, CDFC has distributed \$1.3 million in federal funds to 37 programs throughout the state, representing 31 communities. CDFC will be working closely with the Colorado Partnership Against Violence to provide technical and financial assistance to communities wherever possible.

b. Equipment. The U.S. Department of Defense has a stockpile of military equipment that will not be used due to the downsizing of the military. This includes communications equipment, bullet-proof vests, hardware and the like. It is available to local law enforcement entities for use in counter drug activities.

Because so much of the juvenile violence problem is drug related, I believe law enforcement entities can use this equipment in the fight against juvenile violence. Our temporary statewide coordinator under this program has been the Colorado National Guard. I have transferred the responsibilities under this program to the Colorado Department of Public Safety because of its close relationship with local law enforcement entities. DPS will actively work with local entities to assist them in identifying appropriate equipment and obtaining it from DOD.

11. I propose the organization of a statewide effort, called The Colorado Partnership Against Violence, to help local communities organize themselves and take back their neighborhoods.

Many of the proposals in this package -- law enforcement, revision of the juvenile justice system, witness protection -- are specific actions taken by government. To truly solve the problem of violence, however, communities must take strong action and make a firm statement that violence will not be tolerated. Although each community must establish these community norms, a statewide coalition could help empower communities to take the necessary action to make their neighborhoods safe and to provide an environment in which children are not exposed to or involved in violence.

a. I will hold a statewide summit on juvenile violence to review this proposal and to help organize this effort.

The purpose of this summit will be to review this proposal for needed changes, to reach a common understanding of the issues, and to develop a consensus behind a plan to solve this problem. I will invite people who work with the issue of violence, particularly involving our youth -- educators, law enforcement officials, elected and government officials, judges, service providers, and community leaders -- to convene for an intensive session to identify the steps we must take to solve this problem. Representatives of the business community will be invited to join in this partnership. I will request the attendees to begin providing answers to the following questions:

- o What are your specific responses to the proposals set forth in the 14-point plan?
- o Do we need to expand services, programs and activities that effectively prevent violence? If so, how do we do it effectively?
- o How do we identify effective programs and increase community awareness of them?
- o How do we coordinate among federal, state, local, non-profit and church efforts to avoid duplication of services and efforts?
- o How do we develop standards for obtaining federal and private funds, and operating programs?
- o Should we have a special session of the legislators to begin working on these issues?

I will ask each attendee to sign a pledge to commit to enter into a partnership to solve the problem of violence in Colorado and to return to their

communities to begin working with their neighbors to make a similar commitment.

b. The Colorado Partnership Against Violence effort will be organized and coordinated by the Colorado Community Partnership Office in the Colorado Department of Local Affairs, and the Colorado Department of Public Safety.

The efforts we make at the statewide level will have the most value if communities are organized on a neighborhood-by-neighborhood and block-by-block basis. A new Colorado Community Partnership Office will provide outreach to local governments and neighborhood organizations to help them in their efforts to organize themselves. Communities for a Drug Free Colorado (CDFC) is an initiative which began in the Governor's Office which also will be located in this office.

The Colorado Partnership Against Violence will work with communities in a bottom-up approach, based upon the premise that each community is unique and that state-wide solutions arbitrarily imposed are not effective.

12. I propose that our state government commit to hiring at-risk, young people in work programs to teach them skills to help them get long term jobs. I will call on private businesses also to provide jobs and training for at-risk young adults.

We must provide at-risk juveniles jobs which will give them the training and skills necessary to become self-sufficient, and resist the attraction to gang activity and criminal behavior. Some in the business community have developed programs to help such young people. But, we must do more. I think state government should lead by example, and I also believe that private businesses should commit to hiring at risk youth.

I will form an interagency task force to find jobs in state government which will teach at risk young people skills to help them obtain long term jobs. I will also ask this task force to develop a system which will match juveniles with longer term jobs in private businesses once they complete their government service, and to work with the business community to determine if we should create tax credits for businesses who hire at-risk youth.

This task force will consist of cabinet officers and representatives from the following state offices: the Governor's Job Training Office, the Community Colleges and Occupational Education System, and the Departments of

Social Services, Education, Local Affairs, Natural Resources, Transportation, Personnel, and Health.

13. I propose that we develop a system to evaluate and coordinate current prevention and intervention programs, and to provide a clearinghouse of information on these programs.

Those involved in prevention and intervention services in our state tell me that there are many good programs in Colorado because when Coloradans have seen a need, they have created programs to try and help. We need to develop a system to coordinate and evaluate these programs.

a. The state itself has created many programs to help foster healthy families.

As Governor, I have been a strong advocate for Colorado families, with emphasis on funding and program development in the area of early childhood. It is well established that investment in the earliest years of a child's life leads to positive outcomes in later years. When children are raised in nurturing families, have access to quality early care and education programs, prenatal and ongoing health care and nutritious food, communities reap long-term benefits. Although all of the law enforcement activities we must undertake are important, early childhood interventions are the most effective, long term deterrent to juvenile delinquency. As Governor, I have worked hard to promote and institute the following early childhood programs:

- o Since 1989, 9,250 four-year-olds, who were identified to be at-risk for school failure, were served through the Colorado Preschool Program, a state-funded preschool program.
- o 6,200 four-year-olds are being served in Head Start, a federally-funded program serving low-income families. First Impressions, an initiative out of the Office of the Governor, is coordinating a Head Start State Collaboration grant designed to build bridges between Head Start and the state's early childhood delivery system.
- o Parents who need information and support of child rearing, now have a place that they can call for help. The 4Parents Helpline has responded to thousands of requests from parents since it started in October 1992. Parents As First Teachers, also initiated out of the

Governor's Office, is a newly developed training model to improve the skills, increase the knowledge base and impact the attitudes of those who work with parents.

- o Eight Family Development Centers have been established in Colorado communities at-risk. Family Centers will provide comprehensive, community-based support to families.

- b. State, federal and private funding has been dedicated to this issue.

Specifically, with the passage of Senate Bill 91-94, \$4.4 million in funding has been committed by the Colorado General Assembly to place juveniles outside of the institutional setting and into alternative treatment facilities. Such alternatives are critical to helping juveniles stay out of our juvenile system, and to solving our juvenile violence problem over the long run.

In addition, we know that we must provide alternative, prevention programs for at-risk young people who are not yet in trouble with the law. The state has recently been successful in obtaining federal funds for such a program. Through the Colorado National Guard, Colorado has been selected as a pilot state for Fiscal Year 1993 for a Youth Conservation Corps program, funded by the U.S. Department of Defense. Under this program, unemployed, drug-free, high school drop outs, 16 to 18 years old, enter a six-week residential program where they are taught citizenship, preparation for a high school diploma, life-coping skills, leadership, and physical training. Juveniles are not eligible if they are on parole, probation, have been indicted or charged with a crime, or have any felony connections or capital offenses.

The National Guard also anticipates that Colorado will be selected for participation in the U.S. Department of Defense's Challenge program for FY 94. The Challenge program has criteria similar to the Conservation Corps. However, Challenge is a year-round program with two five-month groups, during which the juveniles would obtain their GEDs.

Private funding sources are also supporting prevention and intervention programs. For example, there are several programs throughout the state which fund outdoor activities in our natural environment to teach at-risk kids skills which will help them stay out of trouble.

c. Duplication of efforts and funding exist, however, and there is a lack of information regarding who is providing what services to whom.

The responsiveness on the part of so many people to help solve this problem unfortunately has created a fragmented, uncoordinated system. For example, with regard to vocational training for youth, there are 18 different federal sources of money going to seven different state agencies, which are then distributed to a myriad of different local programs. No one has had the responsibility of looking at the bigger picture to try and determine if on the whole, we are making a difference, and if not, why not?

I will ask my Human Services Cabinet Council to work with others to develop a system to evaluate and coordinate existing violence prevention and intervention programs and to provide a clearinghouse of information on these programs. This Cabinet Council consists of the heads of the state Departments of Institutions, Higher Education, Health, Labor and Employment, Corrections, Education, Social Services, and Local Affairs, and the Governor's Job Training Office, and Office of State Planning and Budgeting.

I will ask this Council to work with others to develop this system, including legislators and people at the state government level, who are also working on this problem. These include members of the Violence Prevention Advisory Board at the Colorado Department of Health, the state Criminal Justice Commission, and the Juvenile Justice and Delinquency Prevention Advisory Council, which is appointed by the Governor.

14. I propose that we target specific community-based, prevention and intervention programs by working with the private sector and federal government to fund programs that provide services such as mentoring, job skill development, substance abuse prevention, transition for juveniles back into the community, and early childhood development.

I have heard consistently that certain types of programs merit special attention. To test such programs, the state will work with the private sector and federal government to fund programs which include:

- a. Mentoring;
- b. Job skill development and employment opportunities;

- c. Substance abuse prevention;
- d. Transition for juvenile offenders back into the community; and
- e. Early childhood development and parent training.

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Gun bill passes as session closes

By Jennifer Gavin and Steve Lipsher
Denver Post Capitol Bureau

Exhausted but proud of their work, Colorado legislators adjourned their special session on youth violence yesterday after passing a landmark gun-control bill and creating a new system for punishing teenage felons.

Democratic Gov. Roy Romer, who ordered the special session after a summer of drive-by shootings, murders and gunshot wounds to at least three children, watched lawmakers crash through partisan blockades and heavy lobbying.

Romer declared the five days of all-day, late-night work a success and a credit to bipartisan effort.

The governor said he will sign the bills tomorrow with a contract for new jail space in hand, so enforcement of the juvenile handgun ban can begin "within a half-hour."

"This session, the legislature got it," Romer said. "They got the word, and it came from the streets. It was good work, bipartisan work. It's an opportunity for Colorado to give some leadership nationally."

Rep. Jeanne Adkins of Parker, the Republican sponsor of the gun bill, said, "I think this will send the signal that we are getting tough on crime." Other leaders in the GOP-majority legislature agreed, terming the session productive and saying it laid a good groundwork for longer-term approaches in coming months.

The adopted package carries a price tag of about \$40 million in the first year and about \$100 million over five years.

Romer said he'll continue agitating for more citizen involvement in law enforce-

LOW-DOWN:
Majority reaction: 'Mission accomplished.'
/13A

RUN-DOWN:
Ten bills of 36 pass in special session./13A

TURNED DOWN:
Bill to turn Lowry into a youth prison dies./6C

Please see **SESSION** on 13A

Denver Post
9/12/93

Study pinpoints metro gangs

Aurora and Denver picked for 2-year research project that will mold national policy

By Guy Kelly

Rocky Mountain News Staff Writer

Aurora and Denver have been selected for a two-year study that will be used to develop a national policy on how to deal with gangs in America.

Professor Ronald Huff, director of the Criminal Justice Research Center at Ohio State University, met with local officials last week as the first step in a sweeping study that will include in-depth interviews with at least 200 gang members.

"It's going to span the whole gamut — from how they get into gangs to how they're structured," said Huff, who has received a \$250,000 grant from the National Institute of Justice for the study.

Huff will conduct a similar survey in Howard County, Fla. In all, six cities will be studied as part of the institute's efforts to gather information about why gangs have become prevalent.

Bill Atkinson, head of the Aurora Gang Task Force, expects the study to provide information that will help counter an increasingly dangerous and mobile form of urban terrorism.

"There's a growing presence of outside players in the metro area. A lot of people are seeing now are more dangerous," said Atkinson, president of Humana Hospital Aurora. "We're seeing a proliferation of weapons on the street."

The metro area isn't alone, Huff said.

"Gangs are showing up in cities everywhere," he said. "They're in towns you never would have suspected — from Pine Bluff, Ark., to Canton, Ohio. They're showing up in towns of under 6,000."

How and why that's happening will be the focus of Huff and other experts during the study.

But drugs are one obvious reason, said Huff.

"If you plot those small towns on a map, most of them are along freeways," he said. "It's drug traffic. A kid from Arkansas told me, 'Hey man, the freeway runs through Arkansas.'"

If you're going from Chicago to Florida on a drug run, you can easily stop off in Arkansas. If you've got a demand for drugs, there's profit to be made," said Huff, author of *Gangs in America* and an author of



Glenn Asakawa/Rocky Mountain News

Ohio State University professor Ronald Huff and other experts will study gangs in six U.S. cities, including Denver and Aurora, over the next two years.

"We've got to create job opportunities and legitimate income for these kids. Otherwise, I don't know who's going to support us when we retire."

Ronald Huff
Ohio State University

works on crime and the criminal justice system.

Huff said communities go through stages in coping with gangs. Denial is followed by labeling it a police problem. But more cops and bigger prisons won't solve the problem, he said.

"Eventually, people come to the realization that there has to be community involvement," Huff said.

The Aurora Gang Task Force, a coalition of dozens of community organizations, is a model for other cities, he said.

"It's the largest group brought together in Aurora," said Atkinson. "If you look at what's happened in the metro area, Aurora was one of the first cities to take a true community approach to gangs."

Huff said that's probably the only approach that has a chance of success, because

the reasons for the emergence of gangs range from the breakdown of the modern family to old-fashioned greed.

And their existence could have lasting and far-reaching societal consequences if they're left unchecked.

"We have to work in our national self-interest and be selfish and invest in kids, because we're declining as a global economic power and we have an aging population," Huff said. "The young people coming along — one-fourth in the work force are minorities, and a lot of them right now are dropping out of school and don't have job skills."

Unless we act now, the country can count on further decline, he said.

"We've got to create job opportunities and legitimate income for these kids," he said. "Otherwise, I don't know who's going to support us when we retire."

Legislators OK bills on guns, punishment plan

SESSION from Page 1A

ment and for citizens to get to know their neighbors, to provide a safer atmosphere for children over the state.

Romer, who set the agenda for the session, had called for a new 300-bed youth prison that wasn't part of the final package. But he said he was satisfied with plans for temporary county-jail detention and turning a 96-bed wing at an existing Denver prison into space for the state's most violent youths.

Romer said the legislature should revisit the prison proposal and focus on prevention programs when it returns in regular session in January.

The two major bills passed were HB 1001 by Adkins, which aims to get handguns out of the hands of minors except for certain legal uses, and SB 9 by Sen. Dottie Wham, R-Denver, which sets up a new "Youthful Offender System."

Under that system, the state's most violent juveniles ages 14 to 18 could face sentencing as adults and placement in a stark new prison system run by the department of corrections — the adult prison system — instead of the division of youth services, which currently oversees offenders under age 18.

Although youths in the division of youth services would face sentences of up to five years instead of the current maximum of two years for juvenile offenders, incorrigibles in the new system could be sent to adult prisons to serve adult terms.

The Wham bill originally included Romer's plan for a new 300-bed prison for young offenders, plus the renovation of about 100 prison beds, on the grounds of the state mental hospital in Pueblo.

The bill was trimmed down to put the prison on hold but retain 96 new beds for violent youths in a wing at an existing adult prison, the

YOUTH HANDGUN BILL

- **PROHIBITS** handgun possession by anyone younger than 18, except for specific legitimate uses such as hunting and target shooting. Previously, no statewide law existed limiting guns for juveniles, although municipalities such as Denver and Aurora have local ordinances.
- **CREATES** the crime of illegal possession of a handgun, a misdemeanor. Subsequent offenses are felonies — much stricter than any municipal ordinances, which can be only misdemeanors.
- **HOLDS** parents susceptible to charges if they provide or allow their children to have handguns. The offense, a first created by the state, is a class 4 felony, the same level as contributing to the delinquency of a minor.

Denver Reception and Diagnostic Center. The 100 beds at the state hospital also were removed, even though Wham had wanted them to hold adult convicts displaced by the 96 teenagers so county jails would not become more crowded.

The new gun bill, tougher than most existing local laws, makes it a misdemeanor punishable by a year in jail and a fine of up to \$1,000 for Coloradans under age 18 to possess a handgun except for specific purposes — hunting, target shooting, firearms competition or in the home, with the permission of parents. Handguns can be carried in vehicles to and from those activities only if they are unloaded and with ammunition inaccessible.

The bill provides for a minimum of five days in jail for young gun violators and would keep many incarcerated, without bail, through trial — which would occur within 60 days. It also

sets felony penalties, punishable by up to 10 years or more in prison, for repeat juvenile offenders.

The bill makes it a felony, punishable by up to six years in prison and a fine of up to \$500,000, for adults to provide handguns to juveniles except for legal uses.

Lawmakers spent more than an hour yesterday morning debating a "bounty" program added to the gun bill by Sen. Bob Martinez, D-Commerce City. He wanted people to be able to claim rewards of \$5,000 for providing information that led to the conviction of drive-by shooters, but the idea was controversial, and lawmakers didn't want that add-on to cloud the overall gun bill.

Also passed were bills to expand a "camp" program in the regular youth detention system and to expand a program — sought by Senate President Tom Norton and House Majority Leader Tim Foster — extracting victim restitution from young offenders.

Most lawmakers were satisfied with the bill, which even won the support of the National Rifle Association. The NRA sent three national lobbyists to the Statehouse. But some legislators of both parties rejected the gun bill, saying their constituents are opposed to any restrictions on gun ownership.

Sen. Sam Cassidy, D-Pagosa Springs, said he supported the measure despite strong gun-freedom sentiment in his rural district because violence has become such a serious problem, even if it's not a crisis in his district now.

"Sometimes, you have to do what you have to do," he said. "I feel the exceptions offer great protection to the interests that rural Colorado had — it was even endorsed by the NRA."

Many lawmakers agreed that preventing gun violence is the state's next priority — including the reauthorization of existing but somewhat fragmented programs.

LEGISLATURE '93: SPECIAL SESSION

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14-11

Special mission accomplished

But bills seen as just a beginning

By Steve Lipsher
Denver Post Capitol Bureau

From gun aficionados to gun abolitionists, legislators to lobbyists, prosecutors to a former presidential press secretary, nearly everyone went away from the legislative special session claiming: "Mission accomplished."

But few believe the task of stemming juvenile violence is over.

"We are very pleased that the legislature has seen the challenge and was responsive," said Ray Slaughter, lobbyist for the Colorado District Attorneys Council.

"I hope it will have some real impact. If we can get violent juvenile criminals off the street for a period of time, we have achieved something significant."

"Over time, we need to attack the entire juvenile picture in the kind of concentrated manner we have taken in the past five days," Slaughter said.

Handgun opponents claimed victory in seeing a bill passed that will bar youths under 18 from possessing a handgun except for certain legal practices.

"I think it's been quite successful," said Felix Sparks, a former Colorado Supreme Court chief jus-

tice and president of PUNCH, a group opposed to youths having access to handguns.

"We now have in state law what we consider a very strong prevention effort regarding children and handguns. It's my opinion that if we had a bill like this in the past, we could have saved lives."

Former White House Press Secretary James Brady, wounded in a 1981 assassination attempt on President Reagan, lauded Gov. Roy Romer and the legislature for addressing youth violence.

"It takes a great deal of courage to attempt solutions to the serious problem of youth violence, while standing up to the special interest gun lobby," Brady said in a press release. The Republican had addressed lawmakers just before the beginning of the special session Tuesday morning, urging them to pass the gun bill.

"Practically speaking," said Rich Parsons, spokesman for Brady's organization, Handgun Control Inc., "this bill has very few loopholes. I think it'll have a pretty immediate impact. It goes into effect immediately, and punishment is swift. It sends a message to juveniles."

But gun organizations, too,



The Denver Post • Dave Buresh

PLEASED: After the session, Gov. Roy Romer said lawmakers kept 95 percent of what he wanted.

claimed a piece of the glory.

"We have accomplished everything we set out to do," said Jim Milner, lobbyist for the National Rifle Association.

"I think we have to start sending a message to these kids that we're not going to tolerate violent behavior or aberrant behavior at 14 or 44. We need to do everything we can to keep the violent offenders off the street, and I don't think there would be an NRA member who would dispute me on that."

But skirmishes in the raging dispute between Romer and the NRA

continued to flare up yesterday, though both sides said they were pleased with the session.

"It's interesting — their press release today said I finally came to my senses and began to work with them," Romer said.

"That's really a misrepresentation."

Milner, who discounted the governor's criticism — "Roy is Roy, and I don't know what his problem is" — said the organization is most interested in creating more prison space for violent juvenile offenders and will keep up pressure in

Colorado.

"We are going after the same people that they want to go after, but we have a different approach to how they want to do it," Milner said.

House Minority Leader Sam Williams, D-Breckenridge, said the legislature met its assignment, but must take the lead in combatting youth violence in January, during the regular session.

"I think we can feel some measure of success, or comfort, in doing what the public wanted us to do," he said.

3



The Denver Post / Dave Buresh

It's just the same old yarn, comfy
its keep you under wraps from head
toe, in fresh shapes such as tunics,
slim-bottoms, long slim skirts and cro-
cheted maxivests. **FASHION, 1E**

NATURE'S LESSONS

As autumn comes and the animals
prepare for winter, it's a great time to
teach the kids about the natural world.
Several parks offer interpretive pro-
grams just for kids. **WEEKEND**

NEW FORMAT



Major League
Baseball owners
vote to break the
American and Na-
tional Leagues into
three divisions each and add a new
best-of-five round of playoffs for
1994. **SPORTS, 1D**

TOO EARLY

Fresh snow on mountain peaks may
have skiers longing to pull on their
boots, but it's still too early for snow-
making. **BUSINESS, 1C**

DRUG APPROVED

The U.S. Food and Drug Administra-
tion approves the first drug for the
treatment of Alzheimer's
disease. **STORY, 2A**

WEATHER

Today: Partly cloudy. High: 78; low: 50
Tomorrow: High: 86; low: 54



The Denver Post / Duane E. Howell

WITNESS: Former Colorado Chief Justice Felix Sparks displays list of weapons he said came to the state from China.

Romer shrugs off key rewrite

Legislators fear being stampeded

By Steve Lipsher
Denver Post Capitol Bureau

A bill creating a special prison system
for violent juvenile offenders — one of the
hallmarks of Gov. Roy Romer's call for a
special legislative session — was drasti-
cally rewritten last night in a House com-
mittee in an effort to save it.

But Romer was not shaken by the latest
change in SB 9 — a House Judiciary Com-
mittee amendment by Rep. Jeanne Ad-
kins, R-Parker, putting the Youthful Of-
fender System in the Colorado
Department of Institutions rather than the
hard-nosed department of corrections.

"I honestly believe we need this bill,"
Romer said, after cleaning food stains
dripped on the rug in his office, where he
hurriedly has eaten several meals during
the special session. "We need to have a
tough place for tough offenders, which I
think properly is the department of cor-
rections."

But he said he would consider keeping
violent teens in the institutions depart-

ment if they can be separated from less-
serious offenders.

"It's a long process. It still has to go
through House Appropriations, the House
floor and a Senate-House conference com-
mittee," Romer said. "My judgment is
that we're not going to have a final config-
uration of the bill until the end."

Critics, including three Denver Juvenile
Court judges, bashed the measure by Sen.
Dottie Wham, R-Denver, in a day-long
hearing before the committee.

Even the House sponsor, Speaker Chuck
Berry, questioned whether the embattled,
Senate-approved measure is the right pub-
lic-policy direction.

"I don't want the legislature to do some-
thing because we're in a five-day session
and feel like we have to do something,"
said Berry, a Colorado Springs Republi-
can. "There's a lot of deep concern about
it, and I don't think there's any secret.
People are groping through this."

Leading the charge against the bill was
Berry's party compatriot, House Floor
Leader Tim Foster, who questioned the
\$11 million cost and the public policy im-
plicit in the move.

"This is a big step, and I think people

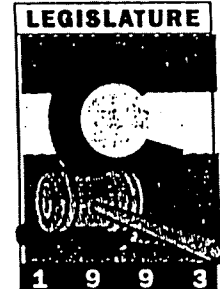
Please see **PRISON** on 11A

SPECIAL SESSION

■ **GUNS:** A bill to restrict handgun
possession by minors emerges from
the Colorado House and wins its first
committee test in the Senate. It may be
the only measure to survive. / **10A**

■ **REACTION:** Ev-
erybody loves HB
1001 — the gun
lobby, the anti-gun
lobby, the law en-
forcement commu-
nity and huge ma-
jorities of
Republicans and
Democrats. / **14A**

■ **BILLS:** What's
still alive — and
what's been kill-



ed. / **10A**

■ **WOUNDED:** An 11-year-old Thorn-
ton boy shoots himself in the face with
a schoolmate's rifle when he stops at
the friend's house. / **11A**

■ **STATISTICS:** More people died of
gunshot wounds than from automobile
accidents last year in Denver. / **12A**

U.S. fires upon Somali women, kids

By Reid G. Miller
The Associated Press

MOGADISHU, Somalia — American Co-
bra helicopters fired on Somali women and
children yesterday in what the United Na-
tions claimed was a "last-resort" effort to

The incident was sure to fire the U.S. con-
gressional debate over American involve-
ment in Somalia and to add fuel to the argu-
ments of some U.N. members, notably Italy,
that the United Nations has lost sight of its
humanitarian mission in the country.

Stockwell, the chief U.N. military
man, initially said a mob of wom-
en and children was swarming over the U.N.
when the helicopters fired on them with
20mm cannons.

Later, however, he said the women

LEGISLATURE '93

Youth-prison bill receives rewrite

PRISON from Page 1A

are concerned about getting it passed in five days," said Foster, R-Grand Junction. "It's very difficult to take a program like this and run it through a five-day session."

The original measure would allow district attorneys to charge youths as young as 14 in adult court for crimes involving weapons, and it would create a special lockup for violent juvenile offenders that would be operated by the Colorado Department of Corrections, rather than the department of institutions, which traditionally has handled juvenile delinquents.

The bill would require teens to serve up to two years in the intensive Youthful Offender System, and they would be subjected to longer adult prison terms if they fail the rehabilitation efforts provided.

"Let's differentiate juveniles on the basis of their conduct, not the basis of their age," said John Suthers, district attorney for El Paso County.

"If they screw up they'll go back to court for the adult sentence that was suspended. . . . You've got a heckuva lot bigger hammer, and that hammer is if you screw up, you've got a longer adult sentence."

But Denver Juvenile Court Judges Dana Wakefield, Orrelle Weeks and David Ramirez attacked the measure as wiping out an overloaded — but not obsolete — system of dealing with youths.

"I'm asking you to keep this in our court," Ramirez said. "You are going to dismantle a system in five days that has been around 100 years."

The judges said they should be left the discretion of whether to treat a youths as adults — although district attorneys already have great latitude in that respect.

Weeks noted Romer's original proposal included a detention facility for 500 violent juvenile offenders. But legislation introduced



The Denver Post / Duane E. Howell

ROMER: Governor waits to testify before Senate Judiciary Committee yesterday.

this week called for only 300 youths, and the Senate slashed that to a 96-youth pilot program.

The Adkins amendment, approved 7-6 by the committee, would place the youths temporarily in the Denver Regional Diagnostic Center. But that would displace nearly 100 adult prisoners, said corrections chief Ari Zavaras.

Lawmakers, who voted 11-2 to send the bill to the House Appropriations Committee today, ranged widely on the issue.

"I've been in tears over this whole thing," said Rep. Dorothy Rupert, D-Boulder.

"We have three times as many (young) people locked up in jail now than we had three years ago, and I do not feel one bit safer. . . . I'm afraid we're going to get stam-peded into doing this because there are so many people saying 'Do something.'"

SENATE ROLL CALL

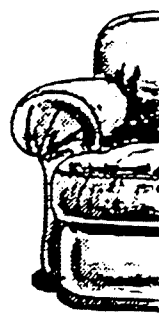
The Senate gave its final approval to SB 9 yesterday by a vote of 29-6, but the bill went on to an uncertain fate in the House. The much-amended bill sets up a new detention system for violent offenders between the ages of 14 and 18.

DEMOCRATS (16):

Voting yes (13): Lloyd Casey, Northglenn; Sam Cassidy, Pagosa Springs; Michael Feeley, Lakewood;

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LEGISLATURE '93: SPECIAL SESSION

GUN BILL VOTE

Here is yesterday morning's 55-8 final House vote on HB 1001, the special session's major gun-control bill. The bill makes it a crime for a person under the age of 18 to carry a handgun, with specific exceptions such as for hunting or target shooting.

DEMOCRATS (31):

Voting yes (30): Don Armstrong, Aurora; Celina Benavidez, Denver; Mary Blue, Longmont; Diana DeGette, Denver; Jim Dyer, Durango; Bob Eisenach, Fort Morgan; Doug Friednash, Denver; Ken Gordon, Denver; Daphne Greenwood, Colorado Springs; Bob Hagedorn, Aurora; Rob Hernandez, Denver; Tony Hernandez, Denver; Vi June, Westminster; Moe Keller, Wheat Ridge; Peggy Kerns, Aurora; Wayne Knox, Denver; Glenda Swanson Lyle, Denver; Mildred Mattingly, Pueblo; Alice Nichol, Denver; Jim Pierson, Arvada; Dan Prister, Grand Junction; Jeannie Reaser, Thornton; Peggy Reeves, Fort Collins; Dorothy Rupert, Boulder; Bob Shoemaker, Canon City; Carol Snyder, Northglenn; Bernie Strom, Fort Collins; Gloria Tanner, Denver; Sam Williams, Breckenridge; Ruth Wright, Boulder.

Voting no (1): Gil Romero, Pueblo.

REPUBLICANS (34):

Voting yes (25): Jeanne Adkins, Parker; Vickie Agler, Littleton; Debbie Allen, Aurora; Norma Anderson, Lakewood; Chuck Berry, Colorado Springs; Ken Chlouber, Leadville; Drew Clark, Boulder; Mike Coffman, Aurora; Jeanne Faatz, Denver; Faye Fleming, Thornton; Tim Foster, Grand Junction; Tony Grampas, Evergreen; Bill Jerke, LaSalle; Bill Kaufman, Loveland; Martha Kreutz, Littleton; Michelle Lawrence, Arvada; Bill Martin, Colorado Springs; Ron May, Colorado Springs; Marcy Morrison, Manitou Springs; Dave Owen, Greeley; Penn Pliffner, Lakewood; Paul Schauer, Littleton; Pat Sullivan, Greeley; Jack Taylor, Steamboat Springs; Shirlleen Tucker, Lakewood.

House clears bill limiting gun possession by minors

By Jennifer Gavin
Denver Post Capitol Bureau

A bill to restrict handgun possession by minors, the No. 1 priority on Gov. Roy Romer's agenda for the special session on youth violence, emerged from the Colorado House yesterday and won its first committee test in the Senate.

Despite Romer's concern that gun-toting teens could use a loophole in the bill to circumvent the law, HB 1001 by Rep. Jeanne Adkins, R-Parker, left the Senate Judiciary Committee on an 8-1 vote. It then won the nod of the Senate Appropriations Committee and was sent to the full Senate, where it will be debated this morning.

The bill's Senate sponsor, Denver Republican Dottie Wham, said she will try to plug the loophole with an amendment if it won't shatter the delicate alliance of competing interests that compromised on the bill. "It's a pretty big hole," she said.

The loophole would let juveniles possess handguns for target practice at a government-sanctioned range "or any other area where the discharge of a firearm is not prohibited." Youths also could have guns in vehicles going to and from a target range — and Romer noted that national forests and other federal lands in Colorado are le-

Minors could have handguns for licensed hunting, target practice and shooting competitions.

gal for discharge of firearms.

The measure makes it a misdemeanor for anyone under age 18 to possess a handgun except for certain uses. It is considered weaker than a similar Senate bill.

The House measure finally won support from gun-control backers, though many wanted stronger penalties and tighter restrictions, and from firearms freedom advocates, including the National Rifle Association.

"It's not much, but it's some," said Sen. Regis Groff, D-Denver, a proponent of stronger gun control. He voted for the bill, saying citizens are demanding immediate action after a summer of drive-by shootings and other gun violence in the metro area and across the state.

The bill makes a youth's first of-

fense a misdemeanor and subsequent offenses felonies. The measure also makes it a felony for an adult to knowingly supply a handgun to a minor in violation of legally allowed uses.

But minors could have handguns for licensed hunting, target practice and shooting competitions and could travel to and from such events with their firearms unloaded. Minors could have handguns at their homes with parental permission.

The bill drew hours of testimony — from Romer, who backed it but voiced concern about the loophole, to a man left for dead by contract murderers, the mother of a teenager hurt by accidental gunfire and a former California gang member who said it's too late to curb gang activity through government action.

The appropriations committee also killed HB 1006 by Rep. Martha Kreutz, R-Littleton, an effort to make state law mirror the federal law on gun sales. The state has more enforcement manpower than the federal government to make sure sellers aren't vending illegally, Kreutz said.

The bill apparently died because of continuing doubt about how to regulate sales by people other than federally licensed gun dealers.

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SALE

Major bill sails; 2nd could sink

By The Denver Post

The major gun-control bill of this week's special legislative session, HB 1001, passed the House yesterday and faces its first floor vote in the Senate today.

Gov. Roy Romer's proposal to create an intermediate level of youth detention system was rewritten in the House Judiciary Committee in an attempt to keep it alive.

Of 36 bills introduced on opening day Tuesday, only half were left alive as of last night — and only three of those are sponsored by Democrats, the minority party in each chamber.

A summary of yesterday's action:

Senate bills passed, sent to House:

■ SB 2, allowing juvenile offenders to be housed in private prisons.

■ SB 5, establishing an intensive family preservation program.

■ SB 9, creating a scaled-back "Youth Offender System," a new intermediate corrections alternative for violent offenders 14-18.

Bills given initial Senate OK:

■ HB 1004, \$1.2 million to expand state programs to help keep troubled kids in line.

■ HB 1012, moving Medicaid funds repaid to state by federal government.

■ HB 1017, increasing fees on young offenders to finance the juvenile justice system.

■ HB 1018, letting counties adopt ordinances against loitering, graffiti and other gang-related infractions.

Senate bills killed:

■ SB 1, to separate juvenile offenders from juveniles prosecuted as adults.

■ SB 4, to permit more filing of charges against juveniles as adults.

■ SB 6, establishing more "boot camp" slots for juvenile offenders.

■ SB 11, setting up rewards of up to \$5,000 for informants who help catch drive-by shooters.

House bills passed, sent to Senate:

■ HB 1001, penalties for illegal handgun possession by juveniles (the major gun-control bill).

■ HB 1002, requiring parents to attend juvenile court hearings.

■ HB 1005, expanding boot camp for youthful offenders.

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Gang law raises ire in Aurora

Making parents responsible won't work, many say

Local ordinance - parental responsibility

By Robert Jackson

Rocky Mountain News Staff Writer

AURORA — Black students, parents and residents yesterday objected to the new anti-gang ordinance that penalizes parents.

"They are crazy," Michael Thompson, 17, an Aurora Central junior, said of city council members who approved the law. "The parents aren't gang bangers. They are not shooting anybody and talking jive. They can't stop their kids from gang banging. They aren't with their kids 24 hours a day."

Under the ordinance, passed 7 to 4 Monday, parents or guardians will be prosecuted if they show a "reckless disregard" for their children's gang activities.

Gang members face up to 180 days in jail or fines of up to \$999.

The ordinance also allows the city attorney to force parents to go to parental-responsibility classes provided through the Colorado Department of Social Services.

The law goes into effect May 28.

The ordinance, said Curtis Ashely, a father, is wrong, and Stacy Anderson, the mother of three teen-agers, called it "downright silly".

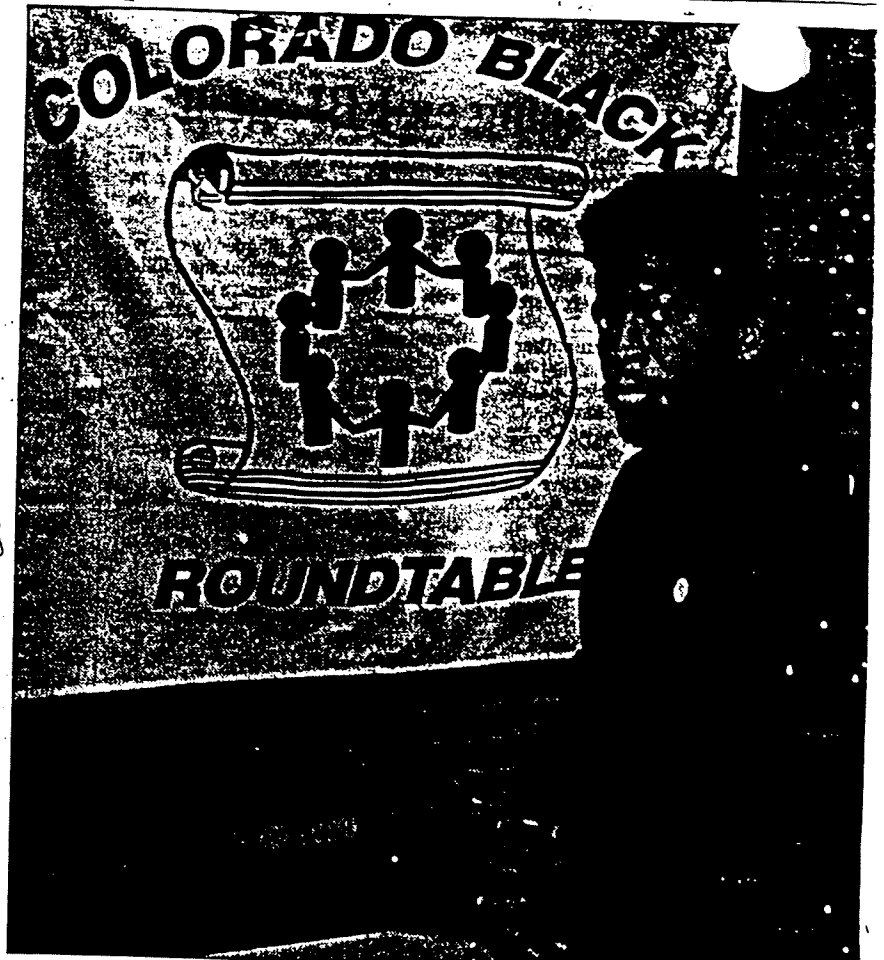
"Half the kids' parents don't know what they are doing," said Ashely. "And if you put your hands on them (gang members), the first thing they do is run to the law because they know the law will protect them and the parents end up in court facing child-abuse charges."

Anderson added:

"Kids will walk into your house and say 'Hey, Ma, I love you,' then turn around and tell you the biggest lie that you have ever heard. And they will have 50 people with them to back them up."

Aurora council members denied the measure was racially motivated.

"I don't know where that is coming from



Steve Groer/Rocky Mountain News

"I have not seen in a long time such a piece of ambiguous legislation," says Chet Whye, an Aurora resident who is vice president of the Colorado Black Roundtable.

unless there is a total misunderstanding of what it is supposed to do," Mayor Paul Tauer said yesterday. "The calls that we have been getting today have been the opposite."

Parents and other residents split on whether the ordinance has any racial overtones.

"It might be aimed at black kids, but there are also white and Hispanic gangs that the law will cover and it should affect them the same," said Fred Pierce, an Aurora resident. "The law will help kids on the border line of becoming gang members fall in a positive direction. But the hard core kids, it won't."

John Mosley said the bill has the potential of diminishing family cohesion.

"If you want to escape this bill," Mosley said. "All you have to do is say your child is emancipated. We shouldn't be encouraging that. We should always say that parents have responsibility for their kids, right or wrong, and regard-

less what age they are or anything else."

Chet Whye, state coordinator of Jesse Jackson's Rainbow Coalition and an Aurora resident, said it's a case of a dysfunctional city council trying to legislate actions against what they call dysfunctional parents.

"I have not seen in a long time such a piece of ambiguous legislation," Whye said. "The Cub Scouts had better watch out because they could be picked up for just standing on the corner."

However, James Thrower, 67, said he approved of the ordinance and "Mom and Dad's butts should be put in jail."

"There are people out there that drink more than I do and don't take care of their kids," said Thrower. "But in my house, if a kid came home with a red jacket, and I know he didn't buy that jacket, he's got to talk to me."

The city council agreed to review the ordinance a year after it takes effect.

Few laws rate as booming successes

By Tillie Fong

Rocky Mountain News Staff Writer

Anti-gang laws have met with varying degrees of success in other cities.

In Los Angeles, where gang members number between 80,000 and 90,000, membership and gang-related deaths have increased despite a state law passed two years ago.

"There have been pockets of success when we have targeted certain areas and certain gangs for enforcement efforts," said Bruce Coplen, supervisor of the Los Angeles city attorney's gang prosecution unit.

California's anti-gang law makes parents accountable for the actions of their children, in 1988. That was used as the model for Aurora's anti-gang ordinance, passed by the city council Monday.

In Los Angeles, gang-related deaths have risen from 387 in 1987 to 554 in 1989 as more sophisticated and deadlier weapons have become available.

The American Civil Liberties Union has challenged the California law in court, charging that the parental responsibility provision is unconstitutional.

For that reason, Seattle shied away from such a law.

"We understand there may be some civil liberties problems," said Marc Mayo, special assistant to the Seattle city attorney.

Seattle has few specific anti-gang laws, choosing to use existing laws to curb gang activity.

"We arrest (gang members) for the crimes they are involved in, and not guilt by association," said Mayo. "But we punish them severely

ly for those crimes."

One anti-gang measure that has worked well in Seattle outlaws use of buildings for gang and drug activities. The police send warnings to the owners saying that if the activities don't stop, the building will be seized by the city.

About 90% of the landlords comply, Mayo said.

Seattle, however, has only about 1,000 gang members, said Tina Drain, spokeswoman for the Seattle police. In 1988, there were only four gang-related deaths. Last year, that number increased to six.

Aurora, which has about 875 gang members, had one gang-related homicide last year.

Posting signs or erecting barricades to declare schools and other areas drug-free zones is used in Chicago, Los Angeles, Philadelphia and Washington, D.C.

An Act

SENATE BILL 93S-8

BY SENATORS Owens, Ament, Bird, Bishop, Blickensderfer, Lacy, Mutzebaugh, Norton, R. Powers, Rizzuto, Roberts, Schroeder, Tebedo, and Wattenberg;
also REPRESENTATIVES Coffman, Anderson, Chlouber, Martin, Ratterree, and Salaz.

CONCERNING THE AVAILABILITY TO THE PUBLIC OF COURT RECORDS IN JUVENILE DELINQUENCY PROCEEDINGS.

Be it enacted by the General Assembly of the State of Colorado:

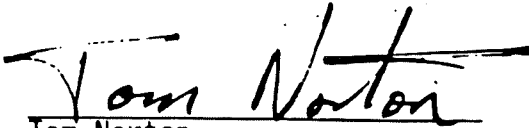
SECTION 1. 19-1-119 (1) (b.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-1-119. Confidentiality of juvenile records - delinquency. (1) (b.5) Court records in juvenile delinquency proceedings concerning a juvenile who is adjudicated a juvenile delinquent for the commission of a delinquent act which would constitute a class 1, 2, 3, or 4 felony if such juvenile were an adult, OR ANY JUVENILE WHO IS CHARGED WITH THE COMMISSION OF ANY SUCH DELINQUENT ACT, shall be open to the public. THE INFORMATION WHICH SHALL BE OPEN TO THE PUBLIC PURSUANT TO THIS PARAGRAPH (b.5) REGARDING A JUVENILE WHO IS CHARGED WITH THE COMMISSION OF A DELINQUENT ACT SHALL BE THE BASIC IDENTIFICATION INFORMATION CONCERNING SUCH JUVENILE, AS DEFINED IN SECTION 24-72-302 (2), C.R.S. However, any psychological profile of any such juvenile, any intelligence test results for any such juvenile, or any information regarding whether such juvenile has been sexually abused shall not be open to the public unless released by an order of the court.

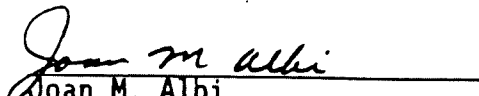
SECTION 2. Safety clause. The general assembly hereby

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

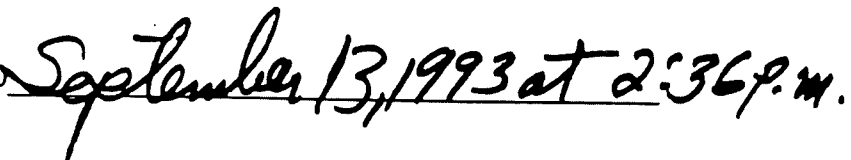
finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

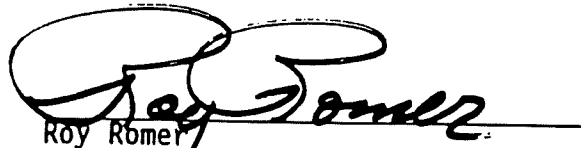

Tom Norton
PRESIDENT OF
THE SENATE


Charles E. Barry
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THE SENATE


Lee C. Bahych
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED  September 13, 1993 at 2:36 p.m.


Roy Romer
GOVERNOR OF THE STATE OF COLORADO

An Act

SENATE BILL 93S-9

BY SENATORS Wham, Johnson, Owens, Ruddick, Bishop, Blickensderfer, Cassidy, Feeley, Gallagher, Groff, Lacy, Mares, Meiklejohn, Mutzebaugh, Norton, Pastore, R. Powers, Rizzuto, Tebedo, Thiebaut, Traylor, Wattenberg, and Wells;
also REPRESENTATIVES Berry, Allen, Armstrong, Friednash, Grampsas, Greenwood, Hagedorn, R. Hernandez, June, Kaufman, Keller, Kerns, Lawrence, Mattingly, Moellenberg, Owen, Pierson, and Reeser.

CONCERNING JUVENILES AGAINST WHOM CRIMINAL CHARGES ARE FILED DIRECTLY IN DISTRICT COURT, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-2-805 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-805. Direct filing. (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(a) (I) The juvenile is fourteen years of age or older and is alleged to have committed a class 1 OR CLASS 2 felony; or

(a.5) (II) The juvenile is ~~sixteen~~ FOURTEEN years of age or older and:

(A) Is alleged to have committed a ~~class 2 or 3~~ felony enumerated as a crime of violence pursuant to section 16-11-309, C.R.S.; OR

(B) IS ALLEGED TO HAVE COMMITTED A FELONY OFFENSE DESCRIBED IN ARTICLE 12 OF TITLE 18, C.R.S., EXCEPT FOR THE POSSESSION OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

A HANDGUN BY A JUVENILE, AS SET FORTH IN SECTION 18-12-108.5, C.R.S., AS CREATED BY HOUSE BILL 93S-1001; OR

(C) IS ALLEGED TO HAVE USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF FELONY OFFENSES AGAINST THE PERSON, WHICH ARE SET FORTH IN ARTICLE 3 OF TITLE 18, C.R.S.; or

~~(b)~~ (III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a ~~class 2~~ or class 3 felony, except felonies defined by section 18-3-403 (1) (e), C.R.S.; or

~~(c)~~ (IV) The juvenile is fourteen years of age or older, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court as a result of a direct filing pursuant to this section or a transfer pursuant to section 19-2-806; except that, if a juvenile is found not guilty in the district court of the prior felony or any lesser included offense, the subsequent charge shall be remanded back to the juvenile court.

(b) THE OFFENSES DESCRIBED IN SUBPARAGRAPHS (I) TO (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL INCLUDE THE ATTEMPT, CONSPIRACY, SOLICITATION, OR COMPLICITY TO COMMIT SUCH OFFENSES.

SECTION 2. 19-2-805 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19-2-805. Direct filing. (2) (a) WHENEVER CRIMINAL CHARGES ARE FILED BY INFORMATION OR INDICTMENT IN THE DISTRICT COURT PURSUANT TO THIS SECTION, THE DISTRICT JUDGE SHALL SENTENCE THE JUVENILE AS FOLLOWS:

(I) AS AN ADULT; OR

(II) (A) TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE WITH SECTION 16-11-311, C.R.S., IF THE JUVENILE IS CONVICTED OF AN OFFENSE DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION; EXCEPT THAT IF A PERSON IS CONVICTED OF A CLASS 1 OR CLASS 2 FELONY, ANY SEXUAL OFFENSE DESCRIBED IN PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., OR A SECOND OR SUBSEQUENT OFFENSE DESCRIBED IN SAID SUBPARAGRAPH (II) FOR WHICH SUCH PERSON RECEIVED A SENTENCE TO THE DEPARTMENT OF CORRECTIONS OR TO THE YOUTHFUL OFFENDER SYSTEM, SUCH PERSON SHALL BE INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JUNE 30,

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1999.

(III) PURSUANT TO THE PROVISIONS OF THIS ARTICLE, IF THE JUVENILE IS LESS THAN SIXTEEN YEARS OF AGE AND IS CONVICTED OF AN OFFENSE OTHER THAN A CLASS 1 OR CLASS 2 FELONY OR A CRIME OF VIOLENCE AS DEFINED UNDER SECTION 16-11-309, C.R.S.

SECTION 3. 19-2-806 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-2-806. Transfer proceedings. (1) (d) Whenever criminal charges are transferred to ~~or filed directly in~~ the district court pursuant to the provisions of this article, the judge of the district court shall have the power to make any disposition of the case that any juvenile court would have or to remand the case to the juvenile court for disposition at its discretion; except that a juvenile who is convicted of a class 1 felony, or whose case was transferred to ~~or filed directly in~~ the district court and who is convicted of a crime of violence, as defined in section 16-11-309, C.R.S., or who has been previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender shall be sentenced pursuant to section 18-1-105, C.R.S.

SECTION 4. 16-11-101 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16-11-101. Alternatives in sentencing. (1) Within the limitations of the penalties provided by the classification of the offense of which a person is found guilty, and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(i) (I) IF THE DEFENDANT IS ELIGIBLE PURSUANT TO SECTION 19-2-805 (2) (a), C.R.S., THE DEFENDANT MAY BE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM IN ACCORDANCE WITH SECTION 16-11-311.

(II) THIS PARAGRAPH (i) IS REPEALED, EFFECTIVE JUNE 30, 1999.

SECTION 5. Part 3 of article 11 of title 16, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-311. Sentences - youthful offenders - legislative declaration - powers and duties of district court - authorization for youthful offender system - powers and duties of department of corrections. (1) (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE YOUTHFUL OFFENDER SYSTEM ESTABLISHED PURSUANT TO THIS SECTION SHALL BENEFIT THE STATE BY PROVIDING AS A SENTENCING OPTION FOR CERTAIN YOUTHFUL OFFENDERS A CONTROLLED AND REGIMENTED

ENVIRONMENT THAT AFFIRMS DIGNITY OF SELF AND OTHERS, PROMOTES THE VALUE OF WORK AND SELF-DISCIPLINE, AND DEVELOPS USEFUL SKILLS AND ABILITIES THROUGH ENRICHED PROGRAMMING.

(b) IT IS THE FURTHER INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS SECTION THAT FEMALE AND MALE OFFENDERS FOR WHOM CHARGES HAVE BEEN DIRECTLY FILED IN THE DISTRICT COURT AND WHO HAVE BEEN CONVICTED IN THE DISTRICT COURT RECEIVE EQUITABLE TREATMENT IN SENTENCING, PARTICULARLY IN REGARD TO THE OPTION OF BEING SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM PURSUANT TO SECTION 19-2-805 (2), C.R.S. ACCORDINGLY, IT IS THE GENERAL ASSEMBLY'S INTENT THAT NECESSARY MEASURES BE TAKEN BY THE DEPARTMENT OF CORRECTIONS TO ESTABLISH SEPARATE HOUSING FOR FEMALE AND MALE OFFENDERS WHO ARE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM WITHOUT COMPROMISING THE EQUITABLE TREATMENT OF EITHER.

(2) (a) A JUVENILE MAY BE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM CREATED PURSUANT TO THIS SECTION UNDER THE CIRCUMSTANCES SET FORTH IN SECTION 19-2-805 (2) (a) (II), C.R.S. IN ORDER TO SENTENCE A PERSON TO THE YOUTHFUL OFFENDER SYSTEM, THE COURT SHALL FIRST IMPOSE UPON SUCH PERSON A SENTENCE TO THE DEPARTMENT OF CORRECTIONS IN ACCORDANCE WITH SECTION 18-1-105, C.R.S. THE COURT SHALL THEREAFTER SUSPEND SUCH SENTENCE CONDITIONED ON COMPLETION OF A SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM, INCLUDING A PERIOD OF PAROLE SUPERVISION. THE COURT SHALL IMPOSE ANY SUCH SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM FOR A DETERMINATE PERIOD OF NOT LESS THAN ONE YEAR NOR MORE THAN FIVE YEARS AND A MANDATORY PERIOD OF PAROLE SUPERVISION FOR A PERIOD OF ONE YEAR. UPON THE SUCCESSFUL COMPLETION OF THE PROGRAMS IN THE YOUTHFUL OFFENDER SYSTEM, INCLUDING THE MANDATORY PERIOD OF SUPERVISION, THE SENTENCE TO THE DEPARTMENT OF CORRECTIONS SHALL HAVE BEEN COMPLETED. WHENEVER A PERSON IS RETURNED TO THE DISTRICT COURT FOR REVOCATION PURSUANT TO SUBSECTION (5) OF THIS SECTION, THE COURT SHALL IMPOSE THE ORIGINAL SENTENCE FOLLOWING THE REVOCATION OF THE SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM. SUCH REVOCATION SHALL BE IN ACCORDANCE WITH SECTION 16-11-206.

(a.5) DURING ANY PERIOD OF INCARCERATION UNDER THE YOUTHFUL OFFENDER SYSTEM, PRIVILEGES INCLUDING, BUT NOT LIMITED TO, TELEVISIONS, RADIOS, ENTERTAINMENT SYSTEMS, CIGARETTES, AND ACCESS TO SNACKS SHALL NOT BE AVAILABLE FOR A YOUTHFUL OFFENDER UNLESS SUCH PRIVILEGES HAVE BEEN EARNED UNDER A MERIT SYSTEM.

(b) ARTICLE 22.5 OF TITLE 17, C.R.S., CONCERNING TIME CREDITS, SHALL NOT APPLY TO ANY PERSON SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM.

(3) THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP AND IMPLEMENT A YOUTHFUL OFFENDER SYSTEM FOR OFFENDERS SENTENCED IN ACCORDANCE WITH SUBSECTION (2) OF THIS SECTION. THE YOUTHFUL OFFENDER SYSTEM SHALL BE UNDER THE DIRECTION AND CONTROL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS. THE YOUTHFUL

OFFENDER SYSTEM SHALL BE BASED ON THE FOLLOWING PRINCIPLES:

(a) THE SYSTEM SHOULD PROVIDE FOR TEACHING OFFENDERS SELF-DISCIPLINE BY PROVIDING CLEAR CONSEQUENCES FOR INAPPROPRIATE BEHAVIOR;

(b) THE SYSTEM SHOULD INCLUDE A DAILY REGIMEN THAT INVOLVES OFFENDERS IN PHYSICAL TRAINING, SELF-DISCIPLINE EXERCISES, EDUCATIONAL AND WORK PROGRAMS, AND MEANINGFUL INTERACTION, WITH A COMPONENT FOR A TIERED SYSTEM FOR SWIFT AND STRICT DISCIPLINE FOR NONCOMPLIANCE;

(c) THE SYSTEM SHOULD USE STAFF MODELS AND MENTORS TO PROMOTE WITHIN AN OFFENDER THE DEVELOPMENT OF SOCIALLY ACCEPTED ATTITUDES AND BEHAVIORS;

(d) THE SYSTEM SHOULD PROVIDE OFFENDERS WITH INSTRUCTION ON PROBLEM-SOLVING SKILLS AND SHOULD INCORPORATE METHODS TO REINFORCE THE USE OF COGNITIVE BEHAVIOR STRATEGIES THAT CHANGE OFFENDERS' ORIENTATION TOWARD CRIMINAL THINKING AND BEHAVIOR;

(e) THE SYSTEM SHOULD PROMOTE AMONG OFFENDERS THE CREATION AND DEVELOPMENT OF NEW GROUP CULTURES WHICH RESULT IN THE APPLICATION OF POSITIVE PEER INFLUENCE WHICH PROMOTES BEHAVIORAL CHANGE; AND

(f) THE SYSTEM SHOULD PROVIDE OFFENDERS THE OPPORTUNITY TO GRADUALLY REENTER THE COMMUNITY WHILE DEMONSTRATING THE CAPACITY FOR SELF-DISCIPLINE AND THE ATTAINMENT OF RESPECT FOR THE COMMUNITY.

(3.5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS SHALL HAVE FINAL APPROVAL ON THE HIRING AND TRANSFERRING OF STAFF FOR THE YOUTHFUL OFFENDER SYSTEM. IN STAFFING THE YOUTHFUL OFFENDER SYSTEM, THE EXECUTIVE DIRECTOR SHALL SELECT PERSONS WHO ARE TRAINED IN THE TREATMENT OF JUVENILES OR WILL BE TRAINED IN THE TREATMENT OF JUVENILES PRIOR TO WORKING WITH SUCH JUVENILES, ARE TRAINED TO ACT AS ROLE MODELS AND MENTORS PURSUANT TO PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, AND ARE BEST EQUIPPED TO ENABLE THE YOUTHFUL OFFENDER SYSTEM TO MEET THE PRINCIPLES SPECIFIED IN SUBSECTION (3) OF THIS SECTION. THE EXECUTIVE DIRECTOR SHALL MAKE A RECOMMENDATION TO THE DEPARTMENT OF PERSONNEL REGARDING THE CLASSIFICATION OF POSITIONS WITH THE YOUTHFUL OFFENDER SYSTEM, TAKING INTO ACCOUNT THE LEVEL OF EDUCATION AND TRAINING REQUIRED FOR SUCH POSITIONS.

(4) THE YOUTHFUL OFFENDER SYSTEM SHALL PROVIDE FOR PAROLE SUPERVISION WHICH SHALL CONSIST OF HIGHLY STRUCTURED SURVEILLANCE AND MONITORING AND EDUCATIONAL AND TREATMENT PROGRAMS. PAROLE SUPERVISION SHALL BE ADMINISTERED BY THE DEPARTMENT'S ADULT PAROLE SUPERVISION STAFF IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 2 OF TITLE 17, C.R.S. HOWEVER, REVOCATION OF PAROLE SHALL BE

SUBJECT TO THE PROVISIONS OF SUBSECTIONS (2) AND (5) OF THIS SECTION.

(5) (a) THE DEPARTMENT OF CORRECTIONS SHALL IMPLEMENT A PROCEDURE FOR THE TRANSFER OF AN OFFENDER TO ANOTHER FACILITY FOR VOCATIONAL OR TRAINING SERVICES OR WHEN AN OFFENDER IN THE SYSTEM POSES A DANGER TO HIMSELF OR HERSELF OR OTHERS AND HAS BEEN CONVICTED OF A CLASS 3 FELONY AND HAS ATTAINED THE AGE OF EIGHTEEN YEARS. EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (c) OF THIS SUBSECTION (5), THE BOARD OF PAROLE SHALL REVIEW ANY TRANSFER DETERMINATION BY THE DEPARTMENT PRIOR TO THE ACTUAL TRANSFER OF AN INMATE.

(b) AN OFFENDER WHO IS MENTALLY ILL OR DEVELOPMENTALLY DISABLED MAY BE TRANSFERRED TO ANOTHER FACILITY. HOWEVER, SUCH TRANSFER SHALL BE IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN SECTION 17-23-101, C.R.S.

(c) THE DEPARTMENT OF CORRECTIONS SHALL IMPLEMENT A PROCEDURE FOR RETURNING OFFENDERS WHO CANNOT SUCCESSFULLY COMPLETE THE SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM TO THE DISTRICT COURT FOR THE IMPOSITION OF THE ORIGINAL SENTENCE.

(6) THE DEPARTMENT OF CORRECTIONS SHALL ESTABLISH AND ENFORCE STANDARDS FOR THE YOUTHFUL OFFENDER SYSTEM. OFFENDERS IN THE YOUTHFUL OFFENDER SYSTEM, INCLUDING THOSE UNDER SUPERVISION, SHALL BE CONSIDERED INMATES FOR THE PURPOSES OF SECTION 17-1-111, C.R.S.

(7) THE NUMBER OF OFFENDERS IN ANY PROGRAM ELEMENT UNDER THE YOUTHFUL OFFENDER SYSTEM SHALL BE DETERMINED BY THE DEPARTMENT WITHIN AVAILABLE APPROPRIATIONS.

(8) THE DEPARTMENT OF CORRECTIONS MAY AND IS ENCOURAGED TO CONTRACT WITH ANY PRIVATE OR PUBLIC ENTITY FOR THE PROVISION OF SERVICES AND FACILITIES UNDER THE YOUTHFUL OFFENDER SYSTEM. THE CONTRACTING FOR SUCH FACILITIES SHALL NOT DELAY THE AVAILABILITY OF NECESSARY REQUIRED SPACE.

(9) ON OR BEFORE NOVEMBER 1, 1993, THE DEPARTMENT, IN CONJUNCTION WITH THE DIVISION OF CRIMINAL JUSTICE, SHALL DEVELOP AND THE DEPARTMENT SHALL IMPLEMENT A PROCESS FOR MONITORING AND EVALUATING THE YOUTHFUL OFFENDER SYSTEM. IN IMPLEMENTING SUCH SYSTEM, THE DEPARTMENT MAY CONTRACT WITH A PRIVATE AGENCY FOR ASSISTANCE.

(10) (a) ON OR BEFORE JANUARY 30, 1994, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REPORT TO THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE CONCERNING THE YOUTHFUL OFFENDER SYSTEM THAT INCLUDES BUT IS NOT NECESSARILY LIMITED TO THE FOLLOWING:

(I) THE SPECIFIC CONTENT AND STRUCTURE OF THE PROGRAMS FOR OFFENDERS IN THE YOUTHFUL OFFENDER SYSTEM, INCLUDING STAFFING RATIOS FOR EACH PROGRAM, A DESCRIPTION OF THE DAILY ROUTINE OF OFFENDERS THAT INCLUDES THE AMOUNT OF OFFENDERS' TIME THAT IS ALLOCATED TO EACH PROGRAM, AND AN EXPLANATION OF HOW THE PROGRAMS ARE RELATED TO THE PRINCIPLES DESCRIBED IN SUBSECTION (3) OF THIS SECTION;

(II) THE PROCESS USED FOR TRANSITION TO PAROLE SUPERVISION, WHETHER OFFENDERS MAY BE RETURNED TO THEIR ORIGINAL ENVIRONMENT FOR THE PAROLE PERIOD, THE SPECIFIC MEANS OF PAROLE SUPERVISION, AND THE SPECIFIC EDUCATIONAL AND TREATMENT PROGRAMS PROVIDED TO OFFENDERS DURING THEIR PAROLE PERIOD;

(III) THE PROCEDURE FOR TRANSFERRING AN OFFENDER TO ANOTHER FACILITY FOR VOCATIONAL OR TRAINING SERVICES OR WHEN AN OFFENDER POSES A DANGER TO HIMSELF OR HERSELF OR OTHERS, AND IDENTIFICATION OF THE FACILITIES USED FOR SUCH PURPOSES;

(IV) THE SPECIFIC CRITERIA AND PROCEDURES FOR DETERMINING SUCCESSFUL COMPLETION OF THE PROGRAMS IN THE YOUTHFUL OFFENDER SYSTEM, FOR DETERMINING WHETHER AN OFFENDER CANNOT SUCCESSFULLY COMPLETE THE SENTENCE, AND FOR REVOCATION OF PAROLE.

(b) ON OR BEFORE MARCH 1, 1994, THE DEPARTMENT OF CORRECTIONS SHALL SUBMIT A REPORT TO THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE CONCERNING THE NUMBER OF OFFENDERS ENTERING THE YOUTHFUL OFFENDER SYSTEM AND A PROFILE OF THE TYPICAL OFFENDER, INCLUDING DEMOGRAPHIC BACKGROUNDS, ENTERING THE SYSTEM, INCLUDING AN ANALYSIS OF THE CRIMINAL BACKGROUNDS OF SUCH OFFENDERS, AND UPDATE THE COMMITTEES QUARTERLY.

(c) THE DIVISION OF CRIMINAL JUSTICE SHALL INDEPENDENTLY MONITOR AND EVALUATE THE YOUTHFUL OFFENDER SYSTEM ADDRESSING THE CRITERIA DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (10).

(11) ANY DISTRICT ATTORNEY IN THE STATE SHALL MAINTAIN RECORDS REGARDING JUVENILES WHO ARE SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM AND SUCH RECORDS SHALL INDICATE WHICH JUVENILES HAVE BEEN FILED ON AS ADULTS OR ARE SENTENCED TO THE SYSTEM AND THE OFFENSES COMMITTED BY SUCH JUVENILES.

(12) THE GENERAL ASSEMBLY RECOGNIZES THAT THE INCREASED NUMBER OF VIOLENT JUVENILE CRIMES IS A PROBLEM FACED BY ALL THE STATES OF THIS NATION. BY CREATING THE YOUTHFUL OFFENDER SYSTEM, COLORADO STANDS AT THE FOREFRONT OF THE STATES IN CREATING A NEW APPROACH TO SOLVING THE PROBLEM OF VIOLENT JUVENILE OFFENDERS. THE GENERAL ASSEMBLY ALSO DECLARES THAT THE COST OF IMPLEMENTING AND OPERATING THE YOUTHFUL OFFENDER SYSTEM WILL CREATE A BURDEN ON THE STATE'S LIMITED RESOURCES. ACCORDINGLY, THE GENERAL ASSEMBLY DIRECTS THE DEPARTMENT OF CORRECTIONS TO SEEK OUT AND ACCEPT AVAILABLE FEDERAL, STATE, AND LOCAL PUBLIC FUNDS, INCLUDING

PROJECT DEMONSTRATION FUNDS, AND PRIVATE MONEYS AND PRIVATE SYSTEMS FOR THE PURPOSE OF CONDUCTING THE YOUTHFUL OFFENDER SYSTEM.

(13) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 1999.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 1993, the sum of one million five hundred thirty-four thousand four hundred forty-eight dollars (\$1,534,448) and 47.0 FTE, or so much thereof as may be necessary, for the operation of the youthful offender system. Such appropriation shall be budgeted separately from the appropriation for any other facility.

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 1993, the sum of one million two hundred fifty-seven thousand nine hundred forty-five dollars (\$1,257,945) and 23.0 FTE, or so much thereof as may be necessary, for the addition of one hundred twenty-eight minimum restricted beds at the Colorado mental health institute at Pueblo.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 1993, the sum of four hundred two thousand dollars (\$402,000), or so much thereof as may be necessary, for additional county jail backup expenses.

SECTION 9. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of institutions for allocation to the division of mental health, for the fiscal year beginning July 1, 1993, the sum of one hundred sixty-three thousand one hundred six dollars (\$163,106) and 3.2 FTE, or so much thereof as may be necessary, for services provided to the department of corrections under the provisions of this act. Such sum shall be from general fund moneys transferred from the department of corrections.

SECTION 10. Renovation of facilities at the Colorado mental health institute at Pueblo. (1) The department of institutions shall make necessary renovations to facilities at the Colorado mental health institute at Pueblo and relocate the residents of buildings 7, 8, and 10 of the institute at Pueblo to such renovated facilities in order to facilitate the renovation of buildings 7, 8, and 10.

(2) The department of corrections shall undertake and complete renovations of buildings 7, 8, and 10 at the Colorado mental health institute at Pueblo sufficient to utilize said buildings as a minimum restricted security facility, as defined in section 17-25-101 (2), Colorado Revised Statutes.

(3) The department of corrections shall relocate the adult inmates housed in the correctional institution at the Denver reception and diagnostic center to buildings 7, 8, and 10 of the Colorado mental health institute at Pueblo as soon as practicable after completion of the renovations of said buildings.

SECTION 11. Appropriation. (1) In addition to any other appropriation heretofore made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund not otherwise appropriated, to the department of institutions, the sum of seven hundred six thousand dollars (\$706,000), or so much thereof as may be necessary, for the purpose of renovating facilities at the Colorado mental health institute at Pueblo and for the purpose of relocating the residents of buildings 7, 8, and 10 to such facilities.

(2) In addition to any other appropriation heretofore made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund not otherwise appropriated, to the department of corrections, the sum of two million one hundred thousand dollars (\$2,100,000), or so much thereof as may be necessary, for the purpose of establishing a minimum restricted security facility as defined in section 17-25-101 (2), Colorado Revised Statutes, by renovating buildings 7, 8, and 10 at the Colorado mental health institute at Pueblo and installing a security fence.

SECTION 12. Appropriation. In addition to any other appropriation heretofore made for the current fiscal year, there is hereby appropriated, out of any moneys in the capital construction fund not otherwise appropriated, to the department of corrections, the sum of one million two hundred thirty thousand dollars (\$1,230,000), or so much thereof as may be necessary, for the purpose of renovating the Denver reception and diagnostic center to provide a correctional institution for juveniles. Of such amount, seven hundred forty-two thousand dollars (\$742,000) shall be expended for the purpose of securing a certain building known as "cell house three" and for the further purposes of ensuring the separation of juveniles from the adult population, expanding program space attached directly to "cell house three", and for purchasing equipment and furnishings. The remaining four hundred eighty-eight thousand dollars (\$488,000) shall be expended for the purchase of modular units to house program space for the youthful offender system and for the construction of a fence to separate the modular units from the adult population.

SECTION 13. 24-75-302 (2) (f), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

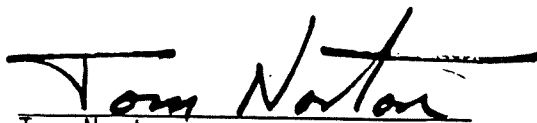
24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1995, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(f) On July 1, 1993, twenty-five million dollars PLUS EIGHT MILLION FIVE HUNDRED FORTY-EIGHT THOUSAND DOLLARS PURSUANT TO S.B. 93S-009, ENACTED AT THE FIRST EXTRAORDINARY SESSION OF THE FIFTY-NINTH GENERAL ASSEMBLY;

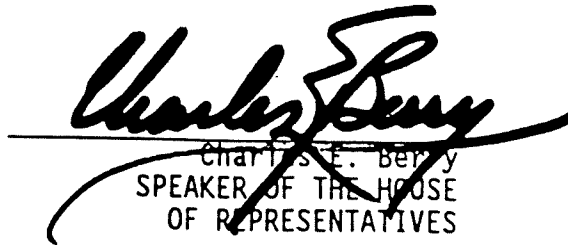
SECTION 14. Effective date - applicability. This act shall take effect upon passage and shall apply to offenses committed on or after said date.

SECTION 15. Safety clause. The general assembly hereby

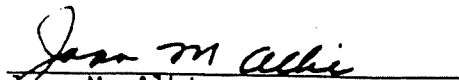
finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



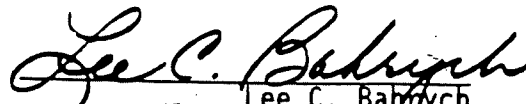
Tom Norton
PRESIDENT OF
THE SENATE



Charles E. Berry
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

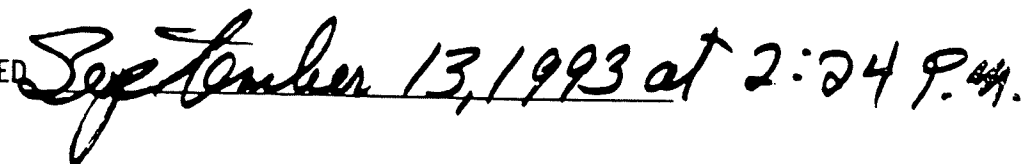


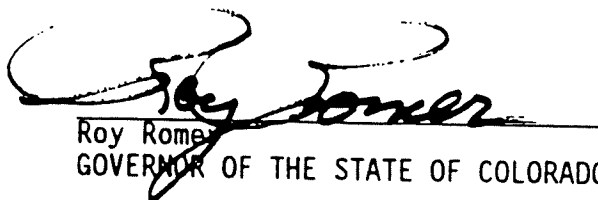
Joan M. Albi
SECRETARY OF
THE SENATE



Lee C. Bahm
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED

 September 13, 1993 at 2:24 P.M.



Roy Roman
GOVERNOR OF THE STATE OF COLORADO

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Kansas County and District Attorneys Association

PROPOSED CHANGES TO JUVENILE SYSTEM

1. Prohibit possession of a Handgun by a juvenile.
2. Prohibit access to loaded firearm by juvenile, language similar to K.S.A. 41-727.
3. Allow jail term of up to 30 days as a condition of probation if offender is 18 at time of disposition. (38-1663)
4. Allow jail term of up to 30 days as a consequence of probation violation for juvenile offender who is 18 at time of violation.
5. Allow release to public the name of juvenile who has absconded or remains at large for alleged offense which would be a felony if committed by an adult. (38-1608(b))
6. Amend juvenile offender code to include person who commit an act under city ordinance or county resolution prohibiting possession or use of a firearm. (38-1602(b))
7. Allow court to impose restitution on parents or legal guardians, as well as on juvenile offender. (38-1663)
8. Add dispositional alternatives of conservation camp not to exceed 180 days, or jail up to one year for juvenile offenders who are 18 at time of disposition, neither of which will extend past juvenile's 21st birthday.
9. Consider truancy to include five or more unexcused absences during a school year. Present limit of per semester allows truant new start every semester. (72-1113)
10. Allow court to declare juvenile offender found incompetent due to mental retardation a child in need of care upon filing of separate CINC action, after which juvenile offender action will be dismissed. (38-1637)

Senate Judiciary
10/29/93
Attachment 15-1

11. Allow issuance of warrant if person adjudicated a juvenile offender escapes from court-ordered placement pending disposition. (38-1631)
12. Eliminate requirement that grandparent or parents' closest living relative must be heard at dispositional hearing. (38-1562)
13. Add adjudication as juvenile offender for felony offense or juvenile offender for felony offense placed in out of home placement to predicate offense of criminal possession of explosive (21-4209a); criminal disposal of explosives (21-4209); criminal disposal of firearms (21-4203); aggravated weapons violations, (21-4202); criminal use of weapons (21-4201); failure to appear (21-3813); aggravated failure to appear (21-3814); aiding escape (21-3811); aggravated escape from custody (21-3810); and escape from custody (21-3809).
14. Remove Youth Correctional Facilities from SRS to DOC.

PUBLISHED IN THE DAILY REPORTER ON

APR 2 1993

ORDINANCE NO. 41-967

AN ORDINANCE CREATING CHAPTER 5.89 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PROHIBITING THE POSSESSION OF FIREARMS BY MINORS UNLESS ACCOMPANIED BY A PARENT, STEPPARENT, GRANDPARENT OR STEPGRANDPARENT OR LEGAL GUARDIAN AND THE PENALTY THEREFOR, AND PROVIDING FOR THE DISPOSITION OF SUCH FIREARMS BY FORFEITURE.

WHEREAS, the repeated random violence involving the use of firearms by minors is a significant public safety concern of the City of Wichita; and

WHEREAS, recent shootings within the City of Wichita demonstrate that minors have used firearms either negligently or intentionally to inflict significant harm either to themselves or other residents of the City; and

WHEREAS, this conduct endangers the public safety of all residents of the City and requires the impositions of restrictions on the possession and use of firearms in this irresponsible manner; and

WHEREAS, the laws of the State of Kansas and the City of Wichita do not adequately restrict firearm possession by minors; and

WHEREAS, the City Council is cognizant of residents' rights regarding the possession of firearms and in an effort to balance these rights with the rights of residents to be safe and secure in their property and person, the Council finds and declares that the City of Wichita has a valid interest in the regulation of the use and possession of firearms by minors and further finds that minors

should not have the opportunity to use or possess firearms unless with a parent, stepparent, grandparent, stepgrandparent or legal guardian, or during several specifically recognized circumstances or events.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1: Section 5.89.010 of the Code of the City of Wichita, Kansas, shall read as follows:

"Definitions. For the purposes of this chapter, the following terms shall have the meaning ascribed to them in this section:

(a) "Minor" means a person who is under the age of eighteen (18) years.

(b) "Firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, expanding gases or other combustion. Air rifles, air pistols and BB guns are included in this definition only if capable of expelling projectiles by the sudden release of compressed gas. This term shall not include a firearm which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841, et seq., and any amendments thereto."

SECTION 2: Section 5.89.020 of the Code of the City of Wichita, Kansas, shall read as follows:

"Possession of a firearm by a minor prohibited, exceptions.

(a) Unless otherwise specifically provided herein, it shall be

unlawful for a minor to possess any firearm within the City of Wichita, except when the minor is in the presence of and under the direct supervision of a parent, stepparent, grandparent, stepgrandparent, or legal guardian.

(b) Any minor who is not in the presence of and under the direct supervision of his or her parent, stepparent, grandparent, stepgrandparent, or legal guardian may only possess a firearm in the City of Wichita under the following circumstances:

1. During a hunter education class held pursuant to K.S.A. 32-920 and conducted by a Kansas Hunter Education Instructor who is certified by the Kansas Department of Wildlife and Parks, provided said possession is under the supervision of the instructor;

2. During a firearms instructional or safety training class taught by an instructor certified by the National Rifle Association or other nationally recognized hunting, target or sports shooting organization, provided said possession is under the supervision of the instructor.

3. While transporting an unloaded firearm to and from an excursion for lawful hunting of game birds or animals provided:

- (a) the minor is in possession of a valid hunting license, if said license is required by State or Federal law for the purposes of the hunting excursion; and

- (b) the minor is in possession of a valid hunter education certificate issued to said minor; and

- (c) the firearm, during transportation, is stored in a case, scabbard, or other container, or has a properly engaged trigger locking mechanism, and it is further stored in the

trunk area of the motor vehicle, or if the motor vehicle does not have a trunk, then the firearm is further stored in an area of the motor vehicle where it will not be readily accessible to the driver or passengers; and
(d) ammunition for the firearm is stored in a box or container separate from the firearm."

SECTION 3: Section 5.89.030 of the Code of the City of Wichita, Kansas, shall read as follows:

"Forfeiture of firearms possessed by a minor. Except as provided in 5.89.040, any firearm seized in connection with a violation of this chapter shall be destroyed by the chief of police whenever the weapon is no longer needed for evidence, or the same shall be forfeited to the Wichita Police Department. Any weapon forfeited to the Wichita Police Department shall be utilized by the police department or sold or traded to a federally licensed wholesale gun dealer for materials to be used by the Wichita Police Department. Proceeds from any such sale shall be used for law enforcement purposes by the Wichita Police Department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council."

SECTION 4: Section 5.89.040 of the Code of the City of Wichita, Kansas, shall read as follows:

"Stolen weapons. Any stolen firearm confiscated in connection with any violation of this chapter shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence."

SECTION 5: Section 5.89.050 of the Code of the City of Wichita, Kansas, shall read as follows:

"Penalty. Any minor violating the provisions of this chapter shall be dealt with in accordance with the Kansas Juvenile Offenders Code, K.S.A. 38-1601, et seq., and any amendments thereto."

SECTION 6: This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication in the official city newspaper.

ADOPTED at Wichita, Kansas, this 30th day of March, 1993.

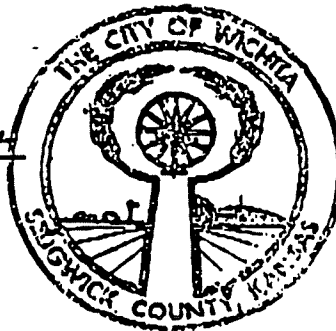


Frank Ojila, Mayor

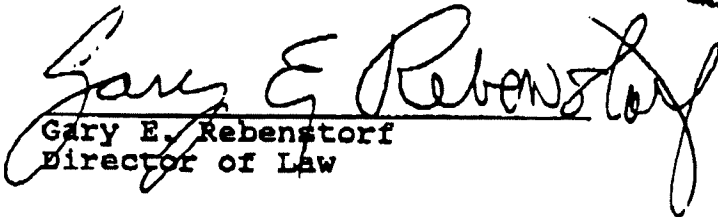
ATTEST:



Patricia L. Burnett
Deputy City Clerk



Approved As To Form:



Gary E. Rebenstorf
Director of Law

DETENTION CENTER
6/21/93 - 9/18/93

- I. Number of Youth Served
A. 34 (Males)
B. 3 (Females)
- II. Average Number of Youth Daily
A. 4.87
- III. Average Days of Stay
A. 12.30
- IV. Average Age of Youth
A. 14.20 (Males)
B. 15.20 (Females)
- V. Number of Incidents Requiring 24 Hour Isolation
A. 10 (Males)
B. 0 (Females)
- VI. Number of Attempted Escapes
A. 0
- VII. Number of Physical Interventions using "Mandt"
A. 0
- VIII. Number of Youth Transferred From Group Home or Shelter
A. 1
- IX. Listing of Counties Who Have Used Detention
- | | | |
|----------|-----------|--------|
| Ellis | Pawnee | Rush |
| Barton | Douglas | Trego |
| Kearney | Logan | Graham |
| Russell | Neosho | Saline |
| Ness | Edwards | Marion |
| Phillips | McPherson | |
| Lyon | Riley | |
| Finney | Sherman | |

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Senate Judiciary Committee
October 29, 1993

I am Ruth O'Donnell, Site Manager for The Farm, Inc. which operates the Greater Western Kansas Regional Juvenile Detention Center, the Terry Home, an emergency shelter and the Trego County Group Home, in WaKeeney, Kansas.

I am here today to discuss the success of the first regional juvenile detention center. The detention center was built in response to the federal and state mandates to remove juveniles from adult jails and lock-ups. The facility represents a unique partnership between federal, state, and local government and the private sector. The state contributed 90% of the \$990,000 to construct the facility. Trego County contributed 10% of the construction costs and two months of operational funding. The 26 counties in the greater western region support the facility by paying a per diem for youth they place in the facility. The federal monies received by the state through the Juvenile Justice and Delinquency Prevention Act contributed \$49,000 in start-up funds. The Farm, Inc., a non-profit company operates the facility under a management agreement with Trego County and finally a private company, Security Transport Service provides the transportation component.

The relationships between the partners has been carefully built since 1988 when the first Juvenile Offender Policy Conference was held in the state. Trego County stepped forward as the host site and the other 25 counties sent representatives to a Youth Authority which hammered out an interlocal agreement concerning the use and operation of the facility. Each county chooses their level of participation in the facility. The level of participation determines the amount of per diem the county pays and the amount of transportation provided.

The facility opened its doors on June 19, 1993. I have provided the committee with some statistics from the first three months of operation. Our average daily population has increased to our capacity of 10 youth over the last six weeks and we have turned down 16 referrals in the last two weeks.

I would like to make the following recommendations to the committee:

- 1) Encourage SRS to pay actual detention costs. SRS currently pays \$49.70 perday for youth in their custody placed at detention facilities. Our operating budget is based on \$145.00 perday. I have difficulty operating the facility in a fiscally sound manner with such a great discrepancy in payment vs. the actual cost of the service.

- 2) Mental Health Services - Many youth who are detained do have an opportunity to reflect upon the behaviors and attitude that got them to this point. It is an ideal time to provide intense counseling support to make changes.

- 3) Study the recommendations of the Juvenile Offender Policy Conference - there were several creative ideas generated at this conference.

Thank you for your time.

FRANK YEOMAN
District Judge - Shawnee County

To introduce myself let me tell you a little of my background.
I have served as:

Social Worker - Wichita, 1966-69; Topeka, 1970-71
Court Administrator)
Supv. of Probation Services) Topeka, 1973-74
Hearing Officer for Juvenile cases)
Prosecutor of Juvenile cases - Topeka, 1974-78
Attorney - Representing juvenile offenders) Topeka,
Attorney - Appointed for parents) 1983-90
District Judge - Shawnee County, 1990-present

Many of the offenders I first met are now grandparents -- they provide us many of our cases with their children as offenders and grandchildren as our children in need of care.

I DO NOT COME HERE WITH A LOT OF STATISTICS TO GIVE YOU.

I would 1st say though that most youth - 90+% will not come before court even once -- of those that do, 50% will be for a misdemeanor offense and only offense. Of balance approximately 10% will repeat/repeat/repeat.

A. I support the notion that persons under 18 have no good reason to have handguns--I can think of few good reasons why persons over 18 need handguns--sticking with juvenile issues, though, let us have law that reflects our reasoned judgment--our children do not need guns!

Let me then say to you though, consider this:

1. Those persons who are in the news about handguns, the drive-by shooters--the gangs--the kids who are running the streets, really don't give a damn what you say. They aren't going in to stores and buying their guns. They won't just quit their illegal behavior just because there is governmental edict.

I foresee little change of the current crises at that level by this proposed change.

2. I want also to say that it is half a step. Please consider this scenario:

a. The Governor has or will propose a "lean" budget -- she will be popular with the citizenry for that.

b. You will pass a law that prohibits children from having guns--you will be popular with the citizenry for that.

c. When the police bring a 15 year old before me who has violated this law, and I put him on unsupervised probation because I have no probation officer to supervise, OR when I put the repeat offender on probation because the only institution available is full, I will not be popular with the citizenry--I will be called "incompetent", "irresponsible". You name it. Well, I am not so concerned about the WHO IS POPULAR but I am

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concerned that the action taken by you is not mere illusion.

This is said not just about the gun issue but all issues--what would you have me do with the offender?

B. Let me tell you about two cases (1st about facilities).

First, I will tell you about Charles.

CHARLES -- is now 16. He is at YCAT. He was first in a diversion program. Then the present offense. He was put on probation. It didn't work and was revoked. He was then put in SRS custody and in a group home. He ran away. Four more group home programs were attempted--they failed. SRS then placed him in the state youth center. Charles remains in YCAT as yet uncorrected. Oh! Did I mention--the offense that caused all this? Charles shoplifted ONE sparkplug from a local discount store.

Wouldn't it be reasonable--if we are going to pursue such a case at all--that we have something short of a state youth center to deal with him? Will we really make progress "treating" this youngster along w/rapists, robbers, and murderers?

On same docket: Kid w/1st offense--following the professional recommendations and example or principles set for adults put him on probation. What is his offense? Aggravated burglary, broke into occupied house, stole high power rifle and other things.

I think our social work model for dealing with juveniles often stands justice on its head. We need punishment/correction that fits the offense--not just the offender. We do need correction but it must be youth correction.

About 1/2 of YCAT population is made up of youngsters that are what I would call "frustration cases". Everything is tried, nothing else will work--runaways are common element. They end up at YCAT because we can't keep them in other places to deal with them properly.

WE NEED A SECURE FACILITY OF INTERMEDIATE NATURE.

The shoplifter does not need to be w/robber. Give us an option, both in interest of justice and practical effect.

Now, let me tell you about a different matter.

C. When you think of "family" and "child" think about a girl named Janice. Let me tell you about Janice.

Janice is before me for shoplifting--baby clothes. Janice is 15, she has a 1-1/2 year old child. Janice most recently stayed with her grandmother but grandmother does not want her. Janice's mother is an alcoholic--she can't care for herself. Janice's father--supposedly lives in San Diego area. Janice has never seen him. Janice has stayed with a boyfriend--not

the baby's father but she doesn't want to go there because too many of his friends use drugs, possibly associated with gangs. What am I to do with her? Impose a fine? Put her on probation? To SRS? What do they do? This is a scene that plays out over and over. Her life will also be one of crime--maybe.

When we say, let's make the family more responsible--I say fine--you tell me how and keep in mind that Janice's family is the kind we regularly deal with.

D. Let me suggest some changes that I support.

DISCLAIMER - I DO NOT CLAIM TO SPEAK FOR ANY OTHER JUDGE.

--JUVENILE AGE--

I would change "juvenile" to be a person over age 12 rather than (10 and over) as now. This change would be consistent w/child development and more nearly consistent w/resources.

Instead of a change in the upper limit of juvenile age generally I would exclude from juvenile jurisdiction, cases involving Intentional Killing -- murder 1st, murder 2nd, voluntary manslaughter.

I would require, however, Secretary of Correction to place any one under 16 in juvenile facility (youth center)--allow it to 18. Housing would have to change at age 18 to adult facility.

--SCHOOL REQUIREMENTS--

I would make school attendance mandatory to age 18.

I would prohibit schools from expelling students for truancy--it accomplishes a very negative result for society.

I would provide as a last resort, residential education facility for those who are kicked out of school.

--WHO RUNS JUVENILE CORRECTION--

I don't support youth facilities under Corrections Department!

I would support ALL youth related services being moved to a separate state agency w/cabinet level status. That was proposed in 1974-75--instead just absorbed and dissolved into the SRS bureaucracy and has no real identity or existence presently.

--CONCLUSION--

Is there a cost to all this? Absolutely!

Is there a cost otherwise--we're paying it now!

As I see it, the choice is which price do you wish to pay.

**JAMES L. BURGESS
PRESIDING JUDGE, JUVENILE DEPARTMENT
18TH JUDICIAL DISTRICT
SEDGWICK COUNTY**

The juvenile offender code as written has functioned fairly well to the extent of getting a case on file, securing a plea or getting a case tried, and entering an adjudication. There are certain matters that need to be addressed but the primary and most critical questions revolve around matters of dispositions and the ability of the juvenile offender justice system to elicit from those appearing in court the changes needed to minimize the risk of future negative behavior and to maximize the prospects for the future.

There are two problem areas that our court has encountered that are predispositioned in nature. One is the authority of the courts to issue warrants and detain juveniles and the other is dealing with mentally retarded offenders.

K.S.A. 38-1631 specifies that a warrant may be issued if there is probable cause to believe a juvenile has committed an offense. Essentially, this means a warrant can be issued to compel a juvenile to appear in court to be advised of charges and to answer those charges. This statute also permits the issuance of a warrant in those cases where a juvenile absconds while on probation or escapes from custody. The court also has the inherent power to enter bench warrants in those cases where a juvenile fails to appear after being ordered to do so. However, there are many situations that don't fit into these categories.

Probation officers are frequently dealing with juveniles that are displaying threatening and dangerous behaviors; they are threatening and have the perceived intention and ability to runaway; or their behavior is reported as "out-of-control" by the parents. Neither K.S.A. 38-1631 or K.S.A. 38-1624 would permit the probation officer to take the juvenile into custody for detention pending further hearing. The way the code is now written the technical procedure would be to file a report of violation of probation which would be set for hearing

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weeks down the road due to congested dockets. Court services officers should be authorized to take a juvenile into custody and detain them pending a hearing pursuant to K.S.A. 38-1632 if the C.S.O. has probable cause to believe the juvenile is a danger to himself or others or is not likely to remain where placed.

An additional area in which the authority to issue a warrant should be specified are those cases where a juvenile enters an initial appearance pursuant to a summons and then runs away prior to trial or disposition. There are many occasions when parents report to us that a respondent has run during this interim period. The way K.S.A. 38-1631 now reads a warrant can be issued only after disposition and the juvenile runs while on probation or after being placed in custody.

The problem of dealing with mentally retarded juveniles occurs with less frequency than the matters described above, but when it does occur, the problem is complex and the code doesn't help to resolve the problem. We have cases where a mentally retarded juvenile is found incompetent to stand trial pursuant to K.S.A. 38-1637. Upon the finding of incompetency, K.S.A. 38-1638 provides that the juvenile should be committed for treatment and evaluation. If it is determined that there is not a substantial probability of attaining competency, it is mandated that involuntary commitment proceedings be commenced.

It has been our experience that the evaluation pursuant to K.S.A. 38-1637 reveals incompetency due to mental retardation and that such incompetency will not change. In such cases, our district attorney has been willing to file a child in need of care case and dismiss the offender case. This insures that the juvenile will get the proper services to attempt to alter future problems while not being subject to an involuntary commitment. It is suggested that K.S.A. 38-1637 be amended to provide that if a juvenile is found incompetent due to mental retardation that the case automatically convert to a child in need of care case.

The biggest problem with juvenile offender cases is the lack of meaningful dispositional alternatives. Many juveniles know that, realistically, these are situations when

there are no real consequences for inappropriate behavior. There are parents involved who refuse to be involved in the solution to problems even though they may be a significant contributor to the problem.

In juvenile offender cases, the court needs the ability to issue orders directed to the parents in much the same way orders are entered in child in need of care cases. At present, this court is authorized to require a parent to participate in family therapy. There is no statutory authority to compel performance by the parents. We have experienced situations where the juvenile is in compliance with the conditions of probation but the parent refuses to participate.

Courts need the ability to require parents to submit to psychological or substance abuse evaluations, participate in individual therapy or substance abuse treatment, attend parenting classes, etc. There also needs to be method to compel performance rather than the traditional contempt citations. It was proposed previously that in appropriate cases parents be responsible with their children for restitution or community service.

Juvenile offenders learn that the court may not have a consequence if they fail to follow terms of probation or a conditional release. They learn that even if the court orders a juvenile be detained they may end up going home.

A juvenile on probation will often continually violate the terms of probation by not paying restitution, meeting with their probation officer, attending school, etc. While the court may explain that such behavior could result in placement in SRS custody, many of these juveniles learn that this will never result in out-of-home placement because there simply aren't enough out-of-home placements.

The court faces a predicament that even though out-of-home placement is ordered, it doesn't or it is impossible for it to happen. Custody is intended for those juveniles with the most demanding behavior problems yet the duration of a youth center placements may be as

short as 90 days. In all instances, when one juvenile is sent to a youth center one must be released. Juveniles are being released when, clearly, their problems and/or behavior have not been resolved.

The court has an extremely difficult time with the concept or the youth centers can accept or reject a juvenile. In one case, a youth center has denied admittance even on a statutorily authorized direct commitment. In all youth center placements, a criteria is used to determine whether a juvenile will be admitted. Essentially, juveniles adjudicated on what previously were designated as A, B, or C felonies would be accepted. For example: A person starts a fire in a trash can at school which is quickly extinguished is charged with arson. Arson was designated a C Felony. Another person is charged with a concealed weapon, a misdemeanor. This person could admit being a gang member, being shot, using drugs, not going to school, etc. This second person would not meet the criteria.

This court experienced a situation in which the youth center refused to admit a juvenile even though he had been released from detention on bond, and while on bond he was gone from home for days at a time, attacked his grandfather with whom he lived, threatened to harm the prosecutor, and was described by the grandfather as completely out-of-control. Even after the court specifically wrote requesting youth center placement, he was denied. He was finally admitted after additional letter writing.

In our district this lack of proper placements is extremely difficult on the area SRS staff. In those cases where a juvenile is placed in SRS custody at disposition and detained pending placement, such detention is on a contract basis between SRS and our county detention facility. In order to control overcrowding, our detention facility will demand pursuant to contract term that SRS remove post dispositional detainees (It should be noted that our detention facility has stated that since it has no statutory mandate to provide detention, as is required by counties in regard to adults, it will cease accepting detentions if it must to control overcrowding.) SRS staff is faced with trying to make a placement in a very limited amount of time. They are also faced with rejections for placement from youth

centers and often numerous other placements that have been contacted. As a result, these juveniles are being sent home.

There are problems with offenders who turn 18 after an offense is committed and prior to disposition or who turn 18 while on probation and commit a violation of that probation. Most programs, including youth centers, are designed for juveniles under 18. If an offense is not overly serious, most programs won't accept offenders over 18. There are no meaningful consequences for an offender over 18. It would extremely useful to the courts to have the ability to order placement of offender 18 or over at the Labette County work camp or to have the ability to place such offenders in adult facilities such as a county jail.

It would be useful for the courts to have a continuum of sanctions for offenders under 18. For violations of day reporting or probation that don't merit out-of-home placement or SRS custody, it would be a useful tool if offenders could be held in detention centers for limited periods. For example: A first violation might merit 48 hours of detention, a second five days, etc. This would, of course, only be an option if overcrowding can be remedied.

It is very important to note that the nature of offenses being charged has changed dramatically just within the last two years. There are more guns being used in offenses. There are more aggravated batteries, aggravated robberies, and murders. Stated simply, there are more juveniles who are stepping over the line from juvenile offenders to criminals. Those juveniles who are not refereed for adult prosecution are being placed at youth centers with offenders who are behavior problems but who might still be reached. We need either a new intermediate facility to house those juveniles who have serious problems but are still amenable or a facility for the "juvenile criminal". These two types of offenders should not be placed together.

Addressing the issues foregoing is important to those involved in the juvenile justice system, it is not an answer to our problems. The foregoing are methods that might help the system deal with the ever increasing number and seriousness of offenses. They do nothing to

stop the flow of offenders into the system. We must be involved with prevention and it must begin at an early age. If we don't get more involved in prevention, we will always be dealing with expanding the size of the juvenile judicial system, there will always be a demand for out-of-home placements, and there will be a never ending flow of juveniles into the adult systems requiring financial assistance, mental health assistance, prosecution, incarceration, and other public services.

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY

Given October 29, 1993

by Thomas H. Graber District Judge

30th Judicial District

Wellington, Kansas

My testimony will be divided into three parts. statutory considerations, continuum of care or services and policy needs.

STATUTORY CONSIDERATIONS

The basic structure of the juvenile justice system in Kansas as set out in the Kansas Juvenile Offenders Code K.S.A. 38-1601 is sound and needs very little change. The code provides the procedure for how a juvenile offender is brought before the court and the process for a judicial determination of who is an offender and who is not. The process itself works pretty well.

However there are two changes in the code that I would urge you to enact. First, the provisions in the code for when the a court may issue a warrant are need to be expanded. The current code provision is found in K.S.A. 38-1631.(a copy is attached as exhibit "A") It basically provides for arrest on probable cause at the start of a proceeding and for a warrant when an offender has absconded after disposition. What it does not clearly provide for is the issuance of a warrant when a person has failed to appear in court during the proceedings and a warrant is needed

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to bring them before the court so the proceedings can reach disposition. I would recommend the addition of the following language:

"A warrant may also be issued at any time when a person alleged to be a juvenile offender under this code has failed to appear in court at a scheduled hearing, at a scheduled appointment with a court service officer, or when a motion to revoke probation with a supporting affidavit has been filed with the court."

Second, the code does not provide for the appointment of a special advocate. There is a need for the code to have a provision similar to K.S.A. 38-1505a. Although a CASA may not be appropriate in all offender cases the court should have the discretion of using a CASA when that would benefit the offender. I would suggest that a new statute K.S.A. 38-1606a be adopted using the following language:

"(a) The court at any stage of a proceeding pursuant to this code may appoint a volunteer special advocate for the juvenile who shall serve until discharged by the court and whose primary duties shall be to advocate the best interests of the child. The court-appointed special advocate shall have such qualifications and perform such specific duties and responsibilities as prescribed by rule of the supreme court.

(b) Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed

prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed."

CONTINUUM OF CARE OR SERVICES

There is a critical need for a continuum of care or services for juvenile offenders. Attached as exhibit "B" is a copy of a copy of K.S.A. 38-1663 as amended in the 1993 session of the legislature. All of the authorized dispositions in a juvenile offender proceedings are set forth in that statute. Although the statute authorizes a fairly wide range of alternatives to a judge at disposition the effectiveness of any order of disposition in effecting a change in behavior is dependent on the services or care available. Under our current "NON-SYSTEM" there is a severe lack of services and availability of care. There is absolutely no continuum of care and therefore there is really no "system".

If you start from the beginning there are not adequate detention available through out the state. Sumner County is supposed to be served by the detention facility in Reno County, however we have been repeatedly told there is no room when we need a juvenile. If the juvenile is also in SRS custody it is almost impossible to get them held in detention no matter what the reason. The most serious situation within the last year was in regard to a juvenile whose parents had moved to our county to get him away from his gang involvement. He took a gun to school and was threatening students. Charges were brought and the

proceedings were accelerated however before he could be brought to court he again had a gun and was threatening people and a warrant was issued at the request of the county attorney's office. He was arrested but there was no room in Reno County's facility and every other detention facility in the state was contacted but they were all full. The net result was that the warrant had to be recalled and the juvenile was released! Frequently we have been told that there was no room for a youth in SRS custody but room could be made for a youth not in SRS custody.

In most courts that have any kind of a case load there is not enough court time and often the actual time scheduled in court per case is less than 15 minutes and may actually average less.

Once a Juvenile is adjudicated the lowest level of services is usually probation. There is a shortage of probation officers and probation as a resource to modify behavior is severely limited. In our county Three court service officers averaged 178 adults and juveniles offenders. We have no intensive supervision available.

If a juvenile is not changed by probation or he is unmanageable and is in need of a structured out of home placement to modify his or her behavior they are not likely to get such a placement. There is currently a shortage of such beds. You may be told that for a level six placement, for example, there are only three boys and three girls on the waiting list that is only true because SRS has implemented policies that keep them off the

list. For example the last boy we tried to put on the list we were told that there were already three boys on the list and that is all that could be put on the list and we would have to call back but there had been four other calls that morning wanting boys added to the list and they had been told to call back.

There are not enough secure facilities available. We currently have a boy who was placed on the waiting list for secure care after having ran off 8 times while waiting for placement he again ran and ended up in Texas. When he was returned he had dropped from 4th on the list to 6th with out any explanation, although he had never been taken off the list.

There is no group home in the state which is designed to provide services to severely emotionally disturbed juveniles with behavior problems. In fact it is extremely difficult to get such youth's placed in any group home and when you do they often can't get adequate mental health services.

There is no group home in the state which has a no reject policy. The result is that youth who are placed in group homes who are a problem or who run off repeatedly are kicked out of one facility and no other equivalent facility will take them. Then the juvenile ends up in a foster home or back at home without any change but a better understanding about how to work the system.

It is almost impossible to get SRS to make a placement of a juvenile at a youth center because of his behavior problems no matter how severe they are. They evaluation only considers what crime or crimes the juvenile has already committed not what his needs are or what crimes the juvenile is likely to commit in the

future if his needs aren't meet.

When a court enters a direct order of commitment because no other alternatives are available to change a juveniles behavior the youth center programs have been shortened until they have lost much of their effectiveness. There is no transition planned or designed to maximize the chances of a juvenile returning from a youth center and they are often given a direct discharge.

POLICY NEEDS

The greatest policy need is for there to be a logical policy that provides a continuum of care and services to the first offender and the repeat offender or gang member. I would call your attention to the "RECOMMENDATIONS OF THE JUVENILE OFFENDER POLICY CONFERENCE" it was prepared by Mainstream, Inc. as a result of a policy conference held in September of 1989. Attached as exhibit "C" is the "executive Summary". Most of the needs identified in that document and in that conference still exist but in a more aggravated form. It has many good recommendations.

The most significant thing that conference focused me on is the lack of a policy for our juvenile "System". We don't have one there is no continuum of care or services so that as a judge I can logical progress from A to B. I mean that their is no logical progression that can be followed to go from probation to a youth center placement or to the treatment of a youth under 18 as an adult because of the offense he committed or because there are no facilities or programs available to the court which are

likely to rehabilitate the juvenile.

There is no state policy that establishes any goals, objectives nor maps any strategy to change the behavior of juvenile offenders. In fact changing behavior is not even established as a goal. We will never get any where until we decide where we are going.

I would propose that we establish as one goal the modification of juvenile offenders behavior. Toward that end we should provide sufficient court services staff in every judicial district so that juveniles on a normal probation have no more than 50 probationers. There should also be intensive supervision available in every judicial district or through community corrections and no intensive service office for juveniles should have a case load of more than 25 clients.

There should be available to each court through community mental health or other community resources timely evaluations of juveniles and their family members in regard to their emotional needs and drug and alcohol evaluations. There should be sufficient resources available so that the need identified by the evaluations can be met.

There should be sufficient detention facilities available through the state so that juveniles who need to be detained can be ;in close enough proximity to their parents that family contact can be continued.

There should be sufficient secure care beds available so that a child needing secure care can be immediately placed there and not put on a 30,60 or 90 day waiting list.

There should be group homes developed with a no reject policy. These homes should also have a graduating level of security so that a youth who comes in a low level of security and runs away or is disruptive can be moved to a higher level of security up to secure care. When the juvenile enters the facility he should be able to be told you don't leave until your behavior is acceptable and if it gets worse you just have less and less freedom.

There need to be group home developed for those youth who have emotional problems and behavior problems. Until such resources are available the SRS should be required to place the juvenile with special needs where ever a resource exists even if it is in another state.

The provision in K.S.A. 65-504(a) which gives the secretary of srs the authority to veto any licenses for facilities for children should be removed from the statute. (a copy is attached a exhibit "D").

The youth center programs should be extended and returned to their original design when they were most effective.

A new facility and programs should be developed for the violent offender.

SRS should be required to maintain accurate waiting lists for all facility and resources and they should prohibit from adopting policies which inhibit the placement of juveniles on waiting lists for services needed by the juveniles.

There should be a mechanism established to identify a juveniles needs, if they can't be agreed upon by the parties it

must be independent of SRS although SRS must necessarily be allowed input. Once needs are identified then SRS should be mandated or required to seek and provide the services or care required to meet the needs of the juvenile so that the juveniles behavior can be modified.

There is a crises in juvenile justice but it is not just in gangs and the violent offender. They are but the most extreme symptom the real crises is in a failure to have a policy and to provide a continuum of services and/or care to juvenile offenders through out the state. We must not focus on one symptom and be blinded to the over all needs of all of the juveniles through out the state.

38-1631. Issuance of warrant. If the court finds there is probable cause to believe that an offense was committed and that it was committed by the respondent, or that a person has absconded while on probation or escaped from a facility or person vested with that person's legal custody or supervision pursuant to this code or the Kansas juvenile code for a nonstatus offense, the court may issue a warrant commanding that the respondent or person be taken into custody and brought before the court. The warrant shall designate where or to whom the respondent or person is to be taken if the court is not open for the regular conduct of business. The warrant shall describe the offense charged in the complaint or the applicable circumstances of the person's absconding or escaping.

History: L. 1982, ch. 182, § 85; Jan. 1, 1983.

Exhibit "A"

11-61
19-11

Sec. 223. K.S.A. 1992 Supp. 38-1663 is hereby amended to read as follows: 38-1663. (a) When a respondent has been adjudged to be a juvenile offender, the judge may select from the following alternatives:

(1) Place the juvenile offender on probation for a fixed period, subject to the terms and conditions the court deems appropriate, including a requirement of making restitution as required by subsection (d).

(2) Place the juvenile offender in the custody of a parent or other suitable person, subject to the terms and conditions the court orders, including a requirement of making restitution as required by subsection (d).

(3) Place the juvenile offender in the custody of a youth residential facility, subject to the terms and conditions the court orders.

(4) Place the juvenile offender in the custody of the secretary.

(5) Impose any appropriate combination of subsections (a)(1) and (2), subsection (a)(3) or subsection (a)(4) and make other orders directed to the juvenile offender as the court deems appropriate.

(6) Commit the juvenile offender, if 13 years of age or older, to a state youth center if the juvenile offender:

(A) Has had a previous adjudication as a juvenile offender under this code or as a delinquent or miscreant under the Kansas juvenile code; or

(B) has been adjudicated a juvenile offender as a result of having committed an act which, if done by a person 18 years of age or over, would constitute a class A, B or C felony as defined by the Kansas criminal code *or, if done on or after July 1, 1993, would constitute an off-grid crime or a nondrug crime ranked in severity level 1 through 5 or a drug crime ranked in severity level 1 through 3.*

(7) Place the juvenile offender under a house arrest program administered by the court pursuant to K.S.A. 21-4603b and amendments thereto.

(b) (1) In addition to any other order authorized by this section, the court may order the juvenile offender and the parents of the juvenile offender to:

(A) Attend counseling sessions as the court directs; or

(B) participate in mediation as the court directs. Participants in such mediation may include, but shall not be limited to, the victim, the juvenile offender and the juvenile offender's parents. Mediation shall not be mandatory for the victim.

(2) Upon entering an order requiring a juvenile offender's parent to attend counseling sessions or mediation, the court shall give the parent notice of the order. The notice shall inform the parent of the parent's right to request a hearing within 10 days after entry of the order and the parent's right to employ an attorney to represent the

parent at the hearing or, if the parent is financially unable to employ an attorney, the parent's right to request the court to appoint an attorney to represent the parent. If the parent does not request a hearing within 10 days after entry of the order, the order shall take effect at that time. If the parent requests a hearing, the court shall set the matter for hearing and, if requested, shall appoint an attorney to represent the parent. The expense and fees of the appointed attorney may be allowed and assessed as provided by K.S.A. 38-1606 and amendments thereto.

(3) The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than that the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than that the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative.

(c) (1) In addition to any other order authorized by this section, if a respondent has been adjudged to be a juvenile offender by reason of an act involving possession, use or abuse of any alcoholic beverage or controlled substance, or both, the court may require the juvenile offender to surrender to the court any driver's license in such offender's possession. The court shall transmit any such license, together with a copy of the adjudication order, to the division of vehicles of the department of revenue. Upon receipt thereof, the division shall revoke the driving privileges of the juvenile offender.

(2) No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked under subsection (c)(1) until such privileges have been restored. The juvenile offender may petition the court to have such privileges restored: (A) At any time if the offender is enrolled and actively participating in an alcohol or drug education or training program certified by the administrative judge of the judicial district or licensed by the secretary of social and rehabilitation services, upon the first offense for which such privileges have been revoked pursuant to subsection (c)(1), but restoration of such privileges shall be conditioned on the offender's continued active participation in such program; (B) at any time after 90 days have elapsed since the offender's driving privileges have been revoked, upon the first offense for which such privileges have been revoked; or (C) at any time after one year has elapsed since the offender's driving privileges have been revoked, upon the second or a subsequent offense for which such privileges have been revoked. Upon such petition and for good cause shown, the court, in its discretion, may restore the offender's driving privileges, subject to the completion of a driver's license examination as required for the issuance of an original driver's license.

Exhibit 1B

(d) Whenever a juvenile offender is placed pursuant to subsection (a)(1) or (2), the court, unless it finds compelling circumstances which would render a plan of restitution unworkable, shall order the juvenile offender to make restitution to persons who sustained loss by reason of the offense. The restitution shall be made either by payment of an amount fixed by the court or by working for the persons in order to compensate for the loss. If the court finds compelling circumstances which would render a plan of restitution unworkable, the court may order the juvenile offender to perform charitable or social service for organizations performing services for the community.

Nothing in this subsection shall be construed to limit a court's authority to order a juvenile offender to make restitution or perform charitable or social service under circumstances other than those specified by this subsection or when placement is made pursuant to subsection (a)(3) or (4).

(e) In addition to or in lieu of any other order authorized by this section, the court may order a juvenile offender to pay a fine not exceeding \$250 for each offense. In determining whether to impose a fine and the amount to be imposed, the court shall consider the following:

(1) Imposition of a fine is most appropriate in cases where the juvenile offender has derived pecuniary gain from the offense.

(2) The amount of the fine should be directly related to the seriousness of the juvenile offender's offense and the juvenile offender's ability to pay.

(3) Payment of a fine may be required in a lump sum or installments.

(4) Imposition of a restitution order is preferable to imposition of a fine.

(5) The juvenile offender's duty of payment should be limited in duration and in no event should the time necessary for payment exceed the maximum term which would be authorized if the offense had been committed by an adult.

(f) In addition to or in lieu of any other order authorized by this section, if a juvenile is adjudged to be a juvenile offender by reason of a violation of the uniform controlled substances act (K.S.A. 65-4101 *et seq.* and amendments thereto) or K.S.A. 41-719, 41-727, 41-804, 41-2719, 41-2720, 65-4152, 65-4153, 65-4154 or 65-4155, and amendments thereto, the court shall order the juvenile offender to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation, except that such evaluation may be waived by the court if the court finds that the juvenile offender has successfully completed an alcohol and drug evaluation, approved by the community-based alcohol and drug safety action program, subsequent to the offender's arrest on

this offense. If the court finds that the juvenile offender and those legally liable for the offender's support are indigent, the fee may be waived. In no event shall the fee be assessed against the secretary or the department of social and rehabilitation services.

(g) The board of county commissioners of a county may provide by resolution that the parents or guardians of any juvenile offender placed under a house arrest program pursuant to subsection (a)(7) shall be required to pay to the county the cost of such house arrest program. The board of county commissioners shall further prepare a sliding financial scale based on the ability of the parents to pay for such a program.

(h) In addition to any other order authorized by this section, if child support has been requested and the parent or parents have a duty to support the respondent the court may, and when custody is placed with the secretary shall, order one or both parents to pay child support. The court shall determine, for each parent separately, whether the parent is already subject to an order to pay support for the respondent. If the parent is not presently ordered to pay support for the respondent and the court has personal jurisdiction over the parent, the court shall order the parent to pay child support in an amount determined under K.S.A. 1992 Supp. 38-16,117 and amendments thereto. Except for good cause shown, the court shall issue an immediate income withholding order pursuant to K.S.A. 23-4,105 *et seq.* and amendments thereto for each parent ordered to pay support under this subsection, regardless of whether a payor has been identified for the parent. A parent ordered to pay child support under this subsection shall be notified, at the hearing or otherwise, that the child support order may be registered pursuant to K.S.A.

1992 Supp. 38-16,119 and amendments thereto. The parent shall also be informed that, after registration, the income withholding order may be served on the parent's employer without further notice to the parent and the child support order may be enforced by any method allowed by law. Failure to provide this notice shall not affect the validity of the child support order.

19-12

EXECUTIVE SUMMARY

Conferees who attended the Juvenile Offender Policy Conference were assigned to a single Tract for the deliberations of the two day conference. Their assignment was decided by their expressed interest and the specific expertise they brought to the conference. The five tracts were: Community Response to High Risk Youth, Pre-Disposition, Disposition, Transition Out, and The Structure of the Juvenile Justice System.

The five tracts were further divided into three or four small groups of 6-10 members. The members of each small group were asked to make recommendations in response to pre-selected topic questions. In Tracts A-D there were two topic questions for which all small groups were asked to make recommendations. Then, at a general meeting of tract members, an overall tract recommendation was determined.

Each tract was assigned a resource person and each small group was assigned a facilitator and recorder. The resource person assumed responsibility for the success of the overall process within the tract. Facilitators were responsible for the small group process, that is, assuring that recommendations were concluded for the topic questions.

Dr. Mary Finn Maples was asked to oversee the entire two-day conference. Dr. Maples helped prepare the conference process; gave instructions to the resource persons, facilitators, and recorders; and assisted the tract and small group leaders in their tasks.

Despite the large number of people (200) who participated in the conference, there were six recommendations which were made by members of all five tracts.

1. Establish a cabinet level department or commission (Kansas Youth Authority).
2. Improve the coordination and communication between people and agencies responsible for the delivery of services to the juvenile offender through the creation of a central agency or case manager that will disseminate information, track juveniles within the system, and identify gaps in the continuum of care.
3. Develop more community-based services either through state funding and/or a mandated juvenile community corrections plan.
4. Increase services to the juvenile offender by expanding the continuum of care with special emphasis on prevention and/or diversion at one end and the discretionary use of secure settings at the other end.
5. Standardize statewide the quality of certain segments of the juvenile justice system such as intake, evaluation, transition out, and after care.
6. Revise the confidentiality law to permit earlier access to and exchange of information between appropriate professionals.

Exhibit "C"

1943

65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure. (a) The secretary of health and environment shall have the power to grant a license to a person, firm, corporation or association to maintain a maternity hospital or home, or a boarding home for children under 16 years of age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place in the hospital or house in which the business is conducted. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity hospital or home, or home for children shall have been made according to the terms of this act and until such maternity hospital or home, or home for children has complied with all the requirements of this act. [No license shall be granted without the approval of the secretary of social and rehabilitation services, except that the secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license.]

(b) (1) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the home shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the home and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such home shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the home or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order

shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act or the provisions of K.S.A. 59-2123 and amendments thereto are being violated, or such maternity hospital or home, or home for children is maintained without due regard to the health, comfort or morality of the residents, the secretary of health and environment, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, shall issue an order revoking such license and such order shall clearly state the reason for such revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license or for a certificate of registration to maintain a family day care home under K.S.A. 65-518 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the act for judicial review and civil enforcement of agency actions.

Exhibit "D"

19-14

THE CITY OF WICHITA



OFFICE OF THE MAYOR
CITY HALL — FIRST FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4331

TESTIMONY

SENATE JUDICIARY COMMITTEE
FRIDAY, OCTOBER 29, 1993
ROOM 123-SOUTH - STATEHOUSE

GOOD AFTERNOON, I AM ELMA BROADFOOT, THE MAYOR OF WICHITA. IT IS A PLEASURE TO APPEAR BEFORE YOU THIS AFTERNOON AS YOU CONSIDER JUVENILE JUSTICE ISSUES. MY COMMENTS TO YOU TODAY WILL FOCUS ON THE ORDINANCES THE CITY OF WICHITA HAS ADOPTED THAT RELATE TO JUVENILES. IN ADDITION, I WILL ALSO ASK THAT YOU CONSIDER SEVERAL IDEAS FOR LEGISLATIVE ACTION IN 1994.

MOST RECENTLY, THE CITY COUNCIL AMENDED AN ORDINANCE RELATING TO CURFEWS WHICH MAKES IT UNLAWFUL FOR A PARENT TO PERMIT HIS OR HER CHILD TO BE IN VIOLATION OF A CURFEW. BEFORE THE ORDINANCE WAS AMENDED, NO PENALTY WAS IMPOSED ON A PARENT UNTIL THEY RECEIVED A WRITTEN WARNING THAT THEIR CHILD HAD VIOLATED CURFEW.

THE CITY COUNCIL FELT THE NEED TO STRENGTHEN THE PENALTY TO SHOW THAT IT IS IMPORTANT FOR PARENTS TO TAKE RESPONSIBILITY FOR THE WHEREABOUTS OF THEIR CHILDREN. LAST MONTH THE COUNCIL REVISITED THIS ORDINANCE AND IMPOSED A MINIMUM \$50 DOLLAR FINE ON THE PARENTS FOR A FIRST OFFENSE.

THE COUNCIL ALSO BELIEVES THAT PARENTS HAVE SOME RESPONSIBILITIES FOR THE SAFE KEEPING OF FIREARMS. IN APRIL OF THIS YEAR, THE COUNCIL PASSED AN ORDINANCE WHICH PROHIBITS A PERSON FROM STORING A LOADED, OR UNLOADED FIREARM WITH AMMUNITION IN CLOSE PROXIMITY, ON ANY PREMISE OR LOCATION, UNLESS THE FIREARM IS LOCKED UP OR PLACED IN A REASONABLY SECURE LOCATION, OR IS SECURED WITH A TRIGGER LOCK DEVICE. IF A PERSON FAILS TO FOLLOW THE REQUIREMENTS, AND A PERSON UNDER 18 YEARS OF AGE GAINS POSSESSION OF THE FIREARM, THEN THE PERSON WHO NEGLIGENTLY STORED THE FIREARM CAN BE FOUND GUILTY OF A MISDEMEANOR AND PUNISHED BY A \$2,500 FINE AND/OR IMPRISONED FOR UP TO ONE YEAR IN JAIL.

THE CITY COUNCIL HAS ALSO PASSED ANOTHER ORDINANCE RELATING TO THE POSSESSION OF FIREARMS BY JUVENILES. THIS ORDINANCE MAKES IT UNLAWFUL FOR A MINOR TO POSSESS ANY FIREARM WITHIN THE CITY LIMITS UNLESS THEY ARE IN THE PRESENCE OF, AND UNDER THE DIRECT SUPERVISION OF A PARENT, STEP-PARENT, GRANDPARENT, STEP-GRANDPARENT OR LEGAL GUARDIAN. ANY MINOR CAUGHT VIOLATING THE PROVISIONS OF THIS ORDINANCE WILL BE PROSECUTED IN THE JUVENILE COURT IN ACCORDANCE WITH THE JUVENILE OFFENDERS CODE.

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I WILL BRIEFLY MENTION SEVERAL OTHER ORDINANCES RELATING TO JUVENILES THAT WERE ADOPTED IN 1992. THE CITY PASSED AN ORDINANCE DECLARING GRAFFITI TO BE A PUBLIC NUISANCE AND MAKING IT THE OWNER OR OCCUPANT'S RESPONSIBILITY TO REMOVE. IF THE OWNER OR OCCUPANT DOES NOT REMOVE THE GRAFFITI, THE ORDINANCE HAS A REMOVAL PROCEDURE AND ALSO AUTHORIZES AN ABATEMENT LEVY.

ADDITIONALLY, THE CITY COUNCIL ADOPTED AN UNLAWFUL ASSEMBLY AND RIOTING ORDINANCE WHICH PROHIBITS FIVE OR MORE INDIVIDUALS FROM COMING TOGETHER FOR THE PURPOSE OF ENGAGING IN DISORDERLY CONDUCT. IT ALSO PROHIBITS RIOTING.

AS YOU CAN SEE, THE CITY COUNCIL IS LOOKING FOR WAYS TO DETER CRIMINAL ACTIONS BY JUVENILES. SEVERAL CITY ORDINANCES MAKE BOTH THE JUVENILE AND THE PARENT OR GUARDIAN RESPONSIBLE FOR THE CRIMINAL ACT.

THROUGH LOCAL LEGISLATION, THE CITY HAS TRIED TO ADDRESS THE PROBLEM OF GUNS AND JUVENILES. WE BELIEVE PROSECUTING JUVENILES WHO HAVE VIOLATED THE ORDINANCE OF UNLAWFUL POSSESSION OF FIREARMS IN JUVENILE COURT IS WORKING. THE ORDINANCE WAS ENACTED IN APRIL, AND TO DATE, APPROXIMATELY 20 CASES HAVE BEEN PROSECUTED.

THE CITY COUNCIL STILL BELIEVES THERE NEEDS TO BE TOUGHER GUN CONTROL LAWS. RIGHT NOW THE CITY IS TRYING TO WORK WITH A TASK FORCE LED BY THE WICHITA COALITION AGAINST GUN VIOLENCE, THE POLICE DEPARTMENT, THE SHERIFF'S OFFICE AND THE DISTRICT ATTORNEY TO DEVELOP A REASONABLE AND ENFORCEABLE ORDINANCE ON GUN RESTRICTIONS. THE CITY IS RECEPTIVE TO LOOKING AT A WAITING PERIOD, PERMIT SYSTEM OR REGISTRATION PROCESS, OR SOME COMBINATION OF APPROACHES. ALTHOUGH THIS ORDINANCE IS NOT SPECIFIC TO JUVENILES, THE CITY HOPES THAT IT WILL GET MORE GUNS OFF THE STREET WHICH WILL IMPACT ACCESS TO GUNS BY JUVENILES.

THE CITY OF WICHITA WANTS TO DO MORE TO CONTROL AND REDUCE CRIME IN OUR NEIGHBORHOODS. WE ARE ALREADY DOING WHAT WE CAN LOCALLY THROUGH THE ENACTMENT OF ORDINANCES. OUR INITIAL RESEARCH INDICATES THAT WE WILL NEED THE HELP OF THE LEGISLATURE TO AMEND STATE LAWS AND TO CLEARLY DEFINE THE CITY'S AUTHORITY TO UNDERTAKE CERTAIN ACTIONS.

RECENTLY THE CITY DEVELOPED A PUBLIC SAFETY INITIATIVE...A PLAN FOR MAKING OUR NEIGHBORHOODS SAFE AND SECURE. TO GAIN INPUT FOR THIS PLAN WE VISITED WITH OVER 70 INDIVIDUALS REPRESENTING THE DIVERSE INTERESTS OF OUR COMMUNITY. ONE IDEA THAT CAME FORWARD FROM THOSE WHO PARTICIPATED IN THE MEETINGS WAS THE NEED TO ESTABLISH BOOT CAMPS FOR JUVENILE OFFENDERS. THESE ARE PLACES WHERE JUVENILES WOULD LEARN BASIC EMPLOYMENT AND LIFE SKILLS WHICH WOULD ENABLE THEM TO TO ATTAIN SELF-SUFFICIENCY. THE CITY BELIEVES THAT IT WILL BE NECESSARY TO AMEND THE JUVENILE CODE TO PROVIDE THE AUTHORITY TO SEND JUVENILES TO A LOCALLY OPERATED BOOT CAMP. IN ADDITION, SUCH FACILITIES SHOULD HAVE SOME LICENSING REQUIREMENTS.

THE CITY ALSO RECOGNIZES THAT THERE HAS BEEN SOME DISCUSSION ABOUT PROSECUTING JUVENILE FIREARM VIOLATORS IN JUVENILE COURT. THE CITY'S LAW DEPARTMENT, WORKING WITH THE DISTRICT ATTORNEY, BELIEVES THE CURRENT STATE STATUTE ALLOWS JUVENILES WHO VIOLATE THE CITY'S ORDINANCE TO BE PROSECUTED IN

JUVENILE COURT. HOWEVER, WE UNDERSTAND OTHER COMMUNITIES ARE INTERESTED IN THIS PROCEDURE AND WOULD LIKE TO SEE A LAW WITH STATEWIDE APPLICATION. THE CITY WOULD SUPPORT CLARIFYING THE STATE STATUE IF OTHERS DEEMED THIS NECESSARY.

THE CITY CONTINUES TO SUPPORT THE 18TH JUDICIAL DISTRICT'S REQUEST FOR INCREASED STATE FUNDING. THEIR ABILITY TO HAVE SUFFICIENT STAFF TO PROSECUTE BOTH JUVENILE AND ADULT CASES IS CRITICAL IF OUR COMMUNITY IS TO IMPROVE PUBLIC SAFETY.

THE CITY ALSO ASKS THAT YOU WORK WITH US TO SEEK A LEGISLATIVE CHANGE TO PROTECT VOLUNTEERS INVOLVED IN CITIZEN PATROLS FROM PERSONAL ASSAULT. IF A CITIZEN PATROL VOLUNTEER IS ASSAULTED WE WOULD LIKE TO HAVE THE OFFENDER FACE THE SAME PENALTY AS ASSAULTING A POLICE OFFICER. WE WANT TO MAKE IT VERY CLEAR TO THE PUBLIC AT LARGE THAT STIFF PENALTIES WILL BE FORTHCOMING TO THOSE WHO HARM INDIVIDUALS WHO VOLUNTEER THEIR TIME TO HELP MAKE OUR NEIGHBORHOODS SAFER PLACES.

WICHITA HAS INCREASING PROBLEMS WITH VIOLENCE AT ESTABLISHMENTS THAT SELL LIQUOR. WE ARE SEEKING AN AMENDMENT TO THE CRIMINAL NUISANCE LAW WHICH WOULD ALLOW THE CITY TO CLOSE LIQUOR ESTABLISHMENTS WHEN REPEATED VIOLENCE HAS OCCURRED ON THE PREMISES.

FINALLY, PROSTITUTION IS ONE CRIME THAT IS VERY DIFFICULT TO GET UNDER CONTROL AND ONE THAT IS A REAL NUISANCE IN CERTAIN NEIGHBORHOODS. IN THE SOUTH BROADWAY AREA THERE IS OPEN SOLICITATION, WHICH HAS AN IMPACT ON THE CHILDREN AND FAMILIES THAT LIVE IN THAT NEIGHBORHOOD. OTHER STATES HAVE PASSED LEGISLATION WHICH ALLOWS A VEHICLE TO BE SEIZED IN INSTANCES WHERE THE DRIVER CRUISES NEIGHBORHOODS AND SOLICITS THE SERVICES OF A PROSTITUTE. WE THINK THIS IS A GOOD POLICY AND ONE THAT COULD HELP US CONTROL THIS PROBLEM IN WICHITA.

IN CONCLUSION, THE CITY OF WICHITA HAS A REAL COMMITMENT TO IMPROVING PUBLIC SAFETY. THE COUNCIL SET FORTH THE GOAL OF MAKING WICHITA THE SAFEST MAJOR CITY OF ITS SIZE WITHIN THE UNITED STATES. WE BELIEVE BY WORKING WITH OTHERS IN THE COMMUNITY, AND YOU AT THE STATE LEVEL, THIS WILL BE POSSIBLE.

Testimony before the Committee on Senate Judiciary
October 29, 1993

Mr. Chairman, members of the committee, I'm pleased to have the opportunity to address you today. My name is Paul Longhofer. I am Assistant Superintendent for Communications for the Wichita School District.

Experiences in the past few years have given new meaning to Will Rogers' famous quote, our schools "ain't what they used to be." Today, school administrators are facing a new world when it comes to guns, gangs and potentially violent situations. I began my career in education over 30 years ago in the Topeka school district. My first gun encounter occurred in 1968 when I removed a .22 caliber pistol from a locker at Topeka High School. Later, in 1983, we had an incident at a school dance while I was principal at North High School in Wichita in which a gun was thought to have been present. That's it for the first 25 years of my career. In the last three years, incidences in which guns have been reported or confiscated at school or school events have become more common.

Wichita's policy of zero tolerance, mandatory expulsion, open disclosure and a highly active press might lead one to believe that it is a problem unique to urban centers like Wichita. While we have had six incidents of guns being confiscated in the Wichita schools so far this year, additional numbers are being reported in other area schools. Our rigorous attempts to deal with guns, gangs and potential violence have attracted attention and we receive regular contacts from other districts who are reviewing policies, procedures and are attempting to increase their ability to respond to problems that are beginning to emerge in their communities. Our Substance Abuse/Violence Prevention office has had over 40 requests from other districts to conduct violence prevention training sessions in recent months. One of our training teams was invited to do a workshop in a small, prosperous rural community about fifty miles from Wichita. They didn't think they had a great

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problem but wanted to be prepared. The team walked through the building and saw seven swastikas and other gang related graffiti in restrooms and in other locations in the high school, indicative that the process was further along than they thought.

Relative to the topic which you are considering today, let me offer a view from the field taken from my own experience and from conversations with school principals and others who regularly deal with problem youth in Kansas. One area that has recently been highlighted for us that needs your attention is the slow adjudication that often happens in our juvenile court systems. While the schools are mandated by law to operate on strict timelines on discipline and expulsions there seems to be no limit to the delays and continuances that are possible through our juvenile court system. I am sure all of you are aware of the shooting incidence that occurred in one of our special schools in Wichita last April 15. Three students were shot and luckily all of them are recovering. The student was expelled from school for the remainder of the year, the maximum provided under state law. Now let me tell you the rest of the story. The student was arrested and held in a juvenile holding facility for three days; she was then released. At this time, some six months later, she has not been brought to trial in juvenile court. She is living at home and has complete contact in the community with the same group of students who were involved in the conflict that brought about the shooting. To prevent her from reentering school this year we have provided sixty days of homebound instruction which is the maximum allowed by law. She is eligible to return to school next week. I understand a court hearing is now scheduled during the third week in November. In the meantime, this student will be back in school with no apparent legal consequences for shooting three students in our hallways. The message given to other pupils is hardly that crime does not pay or as is often said "If you do the crime you'll do the time."

Another concern about which principals express frustration is the lack of options available to the juvenile court. Because of overcrowding in youth facilities, it is a frequent practice to place students on parole and send them right back to the school

even after they commit violent acts, are actively involved in gangs or have been found to be in possession of weapons. The courts are also experimenting with a form of house arrest which involves a kind of electronic monitoring. During the period of house arrest the students are sent back to school and other students who are aware of the crimes for which they were found to be guilty see little legal consequences for the miscreant behavior.

Nor is there any court directed or organized effort to change the behavior patterns. The decision to place a student on parole and send them back to school is made totally independent from any input from the school personnel who are often most intimately acquainted with the personality, conflicts and problems that youth have that placed them under the jurisdiction of the court in the first place.

Another area of concern expressed by school personnel is the lack of effective coordination between state facilities and local school districts. Students are often released from state facilities such as the Youth Center at Topeka (YCAT) and show up back in the home district without coordination or any communication at all. It is not unusual for these students to stay out of school for months and then show up at school asking to enroll without any explanation of why they have not been in school. A better job is being done of coordinating the release of students who have been in state hospitals and come back into the Wichita schools. We send a social worker monthly to Topeka to meet with hospital representatives and are doing a much better job of assuring transition back into the school setting.

Another problem is in the area of mixed jurisdiction and enforcement of laws. While we have some aggressive federal laws on the books regarding weapons in schools, the federal government does not prosecute juveniles for these crimes because they do not have juvenile facilities. Recent efforts to change the age limits on juveniles have been helpful and may result in more prosecutions, but the

number of prosecutions to date under the federal regulations is insignificant. Attempts by the City of Wichita to pass a comprehensive package to respond to fire arms, parental responsibility, curfews and other items is certainly a worthwhile effort, but it is too early to make judgement about the effectiveness of those laws. Even if the legal issues are resolved, it leaves a district like Wichita with some of our schools in the city and other schools in the county under a mixed jurisdiction that makes enforcement spotty and confusing. There is no question that a comprehensive set of state laws would eliminate confusion and make possible effective enforcement in ways that cannot happen with the current patchwork of federal laws, local and state ordinances.

There has been a tremendous level of cooperative effort in the Wichita/Sedgwick County area among courts, law enforcement agencies and the political subdivision to find ways to effectively control gang and other criminal activity and to develop programs that attack the root causes.

The following general suggestions to this committee are actions which could benefit us in our efforts to assure safe school environments and to more effectively education the children in Kansas. First, it would be most helpful if you would conduct a comprehensive study of the way that our existing laws and procedures are working. The problem of mixed legal jurisdiction and of cooperation between various governmental agencies is producing patchwork result that do not assure effective coordination and often allows young people to fall into the cracks. A comprehensive set of state laws which deal with juvenile possession of weapons, parental responsibility for fire arms and other juvenile delinquent activity would be helpful to local school districts.

Secondly, more options need to be available for juvenile court. An intermediate level state facility to assist with transition located in the community could be most beneficial. It would not be necessary that this be a 24 hour a day facility. A

combination of a kind of house arrest which allows the juvenile to sleep in his own home but spend his waking hours at a day facility would greatly facilitate transition. It would also be another option for the juvenile judge. It would be possible for school officials to work directly with the facility to begin placement back into a school setting in ways that would be most helpful to the youngster and cause the least disruption in school programs. A program at such a center could utilize intensive behavior modification strategies and also require parental involvement in the treatment plan. A intermediate level facility such as this would be another option to consider along with other proposals such as the one for a boot camp.

In closing, I would make one other observation. We have made the determination that gun replicas create as much problem as do guns. Over 98% of the weapons cases that we have dealt with over the last years have been passive engagements; that is, the gun was reported but was not used in any threatening manner. We have reliable information that some street gangs are painting real guns to look like toys. We have determined that any gun, be it real or a replica, must be taken seriously because they can be equally disruptive to a school as well as to the community.



KANSAS DEPARTMENT OF CORRECTIONS

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MEMORANDUM

To: Senate Judiciary Committee

From: Gary Stotts
Secretary of Corrections

Subject: Inmates Eligible for Retroactivity - Larned Correctional Mental Health Facility

Date: October 29, 1993

Inmates Eligible for Retroactivity at Larned Correctional Mental Health Facility

As of October 28, 1993, 49 inmates at LCMHF were identified as being eligible for retroactive application of sentencing guidelines. Breakdown by severity level is as follows:

<u>Severity Level</u>	<u>Number of Inmates</u>
5	7
6	1
7	30
8	2
9	4
10	0
4 Drug	5

Through October 28, 18 inmates had been released from LCMHF as a result of retroactivity. Six of the 18 were civilly committed to a state mental hospital upon their release from LCMHF.

In addition to the inmates eligible for retroactivity at LCMHF, as of October 28 there were four inmates at the Larned State Security Hospital in the retroactive pool. One



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inmate has been released under retroactivity from the LSSH, but the inmate was released to another law enforcement agency pursuant to a detainer.

Civil Commitment Petitions

K.S.A. 75-5209 provides in part:

If the inmate shall be in need of continued treatment for mental illness at the expiration of the inmate's term of confinement, an application to obtain such treatment shall be filed pursuant to the treatment act for mentally ill persons.

It is on this basis that the department will, when deemed appropriated by mental health staff, file an involuntary commitment petition in the county where the inmate is confined at the time of release.

Of the 49 inmates remaining in the retroactive pool at LCMHF as of October 28, civil commitment petitions have been filed on 16. Two have been approved, and the inmates will be committed when they reach their retroactive release date; petitions on the other 14 are still pending. As noted above, an additional six civil commitment petitions were approved for inmates already released from LCMHF under retroactivity.

As a point of comparison, between January 1992, when LCMHF opened, and August 31, 1993, the facility filed 21 civil commitment petitions for inmates about to be released. All of the petitions were approved.

Juveniles in the Kansas Department of Corrections
presented by Secretary Stotts to the
Senate Judiciary Committee
October 29, 1993

Juveniles enter the adult correctional system in one of the following ways (ages refer to age at the time the offense was committed):

--16 and 17 year olds may be tried as an adult upon court approval of a motion by the prosecuting attorney to try the juvenile as an adult. K.S.A. 38-1636 specifies several criteria that the judge must consider in making a decision to try a juvenile as an adult;

--16 and 17 year olds are tried as adults if they have two prior adjudications for felony crimes and have been charged with a third felony offense;

--under juvenile felon provisions, 14 and 15 year olds may be tried as an adult if the crime alleged in the complaint is a Class A or B felony for crimes committed before July 1, 1993. Crimes committed after July 1, 1993 must be an off-grid felony, a severity level 1, 2, or 3 crime on the non-drug grid, or a severity level 1 or 2 on the drug grid. Juvenile felons are committed to the custody of the Secretary of Corrections, but initial placement is authorized at the Youth Center at Topeka or the Youth Center at Beloit, where the juvenile may be confined up to the age of 21;

--16 and 17 year olds who have been adjudicated as a juvenile and are confined in an SRS facility shall be tried as an adult if they are being charged with aggravated juvenile delinquency for: burning or attempting to burn a building at the facility; damaging state property; aggravated assault or battery upon an employee of the facility; or a second or subsequent escape from the facility.

Number of Offenders Currently Under the Age of 18

On September 30, 1993 there were 18 offenders in Kansas correctional facilities who were under the age of 18 on that date. Of those:

--	14	were 17 years old as of September 30
	4	were 16 years old as of September 30

- 2 were age 15 at the time of offense
- 12 were age 16 at the time of offense
- 4 were age 17 at the time of offense

- 4 were convicted of Class B felonies
- 6 were convicted of Class C felonies
- 5 were convicted of Class D felonies
- 3 were convicted of Class E felonies

- 2 were convicted of homicide (as most serious offense)
- 4 were convicted of agg. assault or agg. battery
- 3 were convicted of robbery, or agg. robbery
- 2 were convicted of burglary, agg. burglary or theft
- 2 was convicted of a drug offense
- 5 were convicted of other crimes

Number of Offenders Under the Age of 18 at the Time of Offense

On September 30, 1993 there were 235 offenders in Kansas correctional facilities who were under the age of 18 at the time they committed the crime for which they are currently incarcerated. The number does not include offenders who were under 18 at the time of their original offense but who have since been returned to the correctional system as parole violators with or without new sentences. These offenders were excluded from the count because in many cases their most recent crime was committed after the age of 18 or they have been released previously from correctional facilities and have been returned in some cases many years after the original offense was committed.

Of the 235 offenders:

- 4 were 16 years old as of September 30
- 14 were 17
- 53 were 18
- 60 were 19
- 41 were 20
- 21 were 21
- 42 were 22 or older

- 231 were male
- 4 were female

- 3 were age 15 at the time of offense
- 73 were age 16 at the time of offense
- 159 were age 17 at the time of offense

- 24 were convicted of Class A felonies
- 71 were convicted of Class B felonies
- 73 were convicted of Class C felonies
- 52 were convicted of Class D felonies
- 15 were convicted of Class E felonies

- 53 were convicted of homicide (as most serious offense)
- 45 were convicted of agg. assault or agg. battery
- 39 were convicted of robbery or agg. robbery
- 16 were convicted of kidnapping or agg. kidnapping
- 24 were convicted of a sex offense
- 28 were convicted of burglary, agg. burglary or theft
- 18 were convicted of a drug offense
- 12 were convicted of other crimes

Admissions in FY 1993

In FY 1993, admissions to the KDOC system included 118 new court commitments (including new convictions and probation violators with no new sentence) of offenders who were under the age of 18 at the time their offense was committed. Of the 118 offenders:

- 1 was 15 at the time of offense
- 31 were 16
- 86 were 17

- 115 were male
- 3 were female

- 1 was convicted of Class A felony
- 16 were convicted of Class B felonies
- 35 were convicted of Class C felonies
- 38 were convicted of Class D felonies
- 28 were convicted of Class E felonies

-- 5 were convicted of homicide (as most serious offense)
25 were convicted of agg. assault or agg. battery
17 were convicted of robbery or agg. robbery
4 were convicted of kidnapping or agg. kidnapping
12 were convicted of a sex crime
38 were convicted of burglary, agg. burglary, theft or forgery
9 were convicted of a drug offense
8 were convicted of other crimes

Juvenile Felons

Since the juvenile felon law passed in 1990, seven juveniles have been admitted to the custody of the Secretary of Corrections under its provisions. Placement of juvenile felons can be made either at KDOC facilities, the Youth Center at Topeka or the Youth Center at Beloit. The law prohibits placement of juveniles under the age of 16 at either Lansing Correctional Facility or Hutchinson Correctional Facility, however. KDOC and SRS have entered into a written memorandum of agreement regarding administration of the juvenile felon law.

There currently are four inmates in the KDOC system who were under the age of 16 at the time their offense was committed, and who have not been previously confined at YCAT. One of the four has been admitted for evaluation at the Reception and Diagnostic Unit within the past week and is therefore not reflected in the totals summarized above for the September 30 population. A decision has not yet been made regarding placement of this offender.

Additionally, three juvenile felons have been placed at YCAT. Of these, two remain at YCAT and one has been paroled. One of the two juvenile felons still at YCAT has been given probation on his adult sentence and he is no longer within the jurisdiction of the Secretary of Corrections.