Approved:\_\_\_\_

#### MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 7:00 p.m. on March 16, 1994 in the Old Supreme Court Chamber of the Capitol.

All members were present except: Senator Rock (excused)

Senator Bond (excused) Senator Martin (excused)

Senator Vancrum (excused)

Committee staff present: Mike Heim, Legislative Research Department

Darlene Thomas, Committee Secretary

Others attending: See attached list

Chairman Moran introduced William I. Koch, Chairman of the Koch Commission on Crime Reduction and Prevention. The Koch Commission was appointed by Governor Joan Finney to coordinate, analyze and provide information regarding crime in Kansas. Mr. Koch presented written testimony (Attachment No. 1) and answered questions from the Committee.

The meeting adjourned at 8:30 p.m.

The next meeting is scheduled for March 17, 1994.

## INTERIM BRIEFING

TO

HOUSE AND SENATE

JUDICIARY COMMITTEES,

KANSAS LEGISLATURE

March 16, 1994

William I. Koch Commission on Crime Reduction and Prevention

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### OUTLINE

- A. The Commission
- B. The Crime Problem early observations
- C. The existing Criminal Justice System early observations
- D. The Social System context
- E. Legislation comments

## A. KOCH COMMISSION

WHAT?
WHERE?
WHEN?
WHO?

WHY?

### KOCH COMMISSION

#### WHY?

- Crime is no. 1 public issue
- Frustration at all levels of society
- WIK personal experience Cessna Stadium, July 4, 1993
- Governor's request for WIK to head commission
- "Coming to your neighborhood soon"

#### WHAT?

- Independent Commission
- Privately-funded

#### WHERE?

- Kansas focus statewide

#### WHEN?

- 2-year Program
- Appointed Feb. 2, 1994

### KOCH COMMISSION

#### WHO?

- William I. Koch, Chairman
- Brian Barents
- Patti Besse
- Steve Davies, Ph.D.
- Martin Eby
- Governor Joan Finney
- Renee Gardner
- Joseph Jennings
- Dr. Walter Menninger
- Judge Eric Rosen
- David Theroux

### KOCH COMMISSION

#### HOW?

- Look at total system
- Listen to the people of Kansas (customers)
- Get input from all elements affecting or affected by crime
  - \* Criminals and ex-convicts
- \* Victims

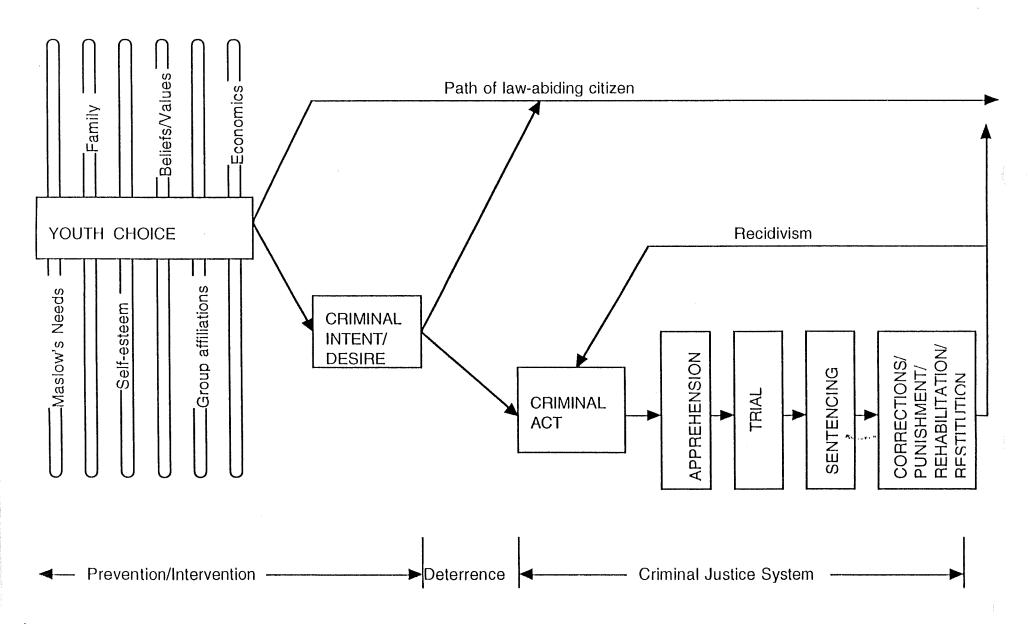
\* Law enforcement

\* Prosecutors

\* Judicial

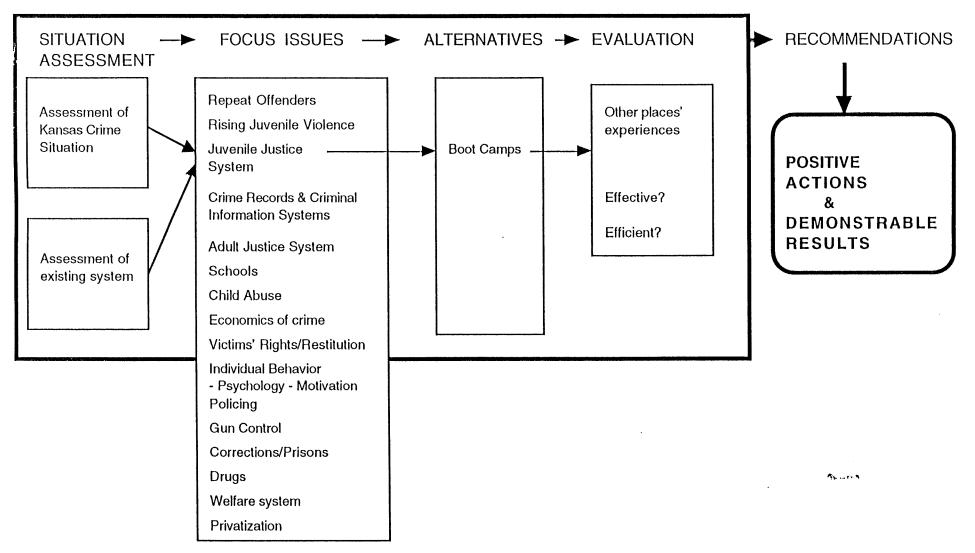
- \* Businesses
- \* City, county, state, fed. govt.
- \* Youth
- Use experiences of others inside and outside Kansas
- Assess what works and what doesn't work
- Evaluate: Effectiveness? Efficiency?
- Recommend actions to implement

#### FLOW CHART or SYSTEM MODEL

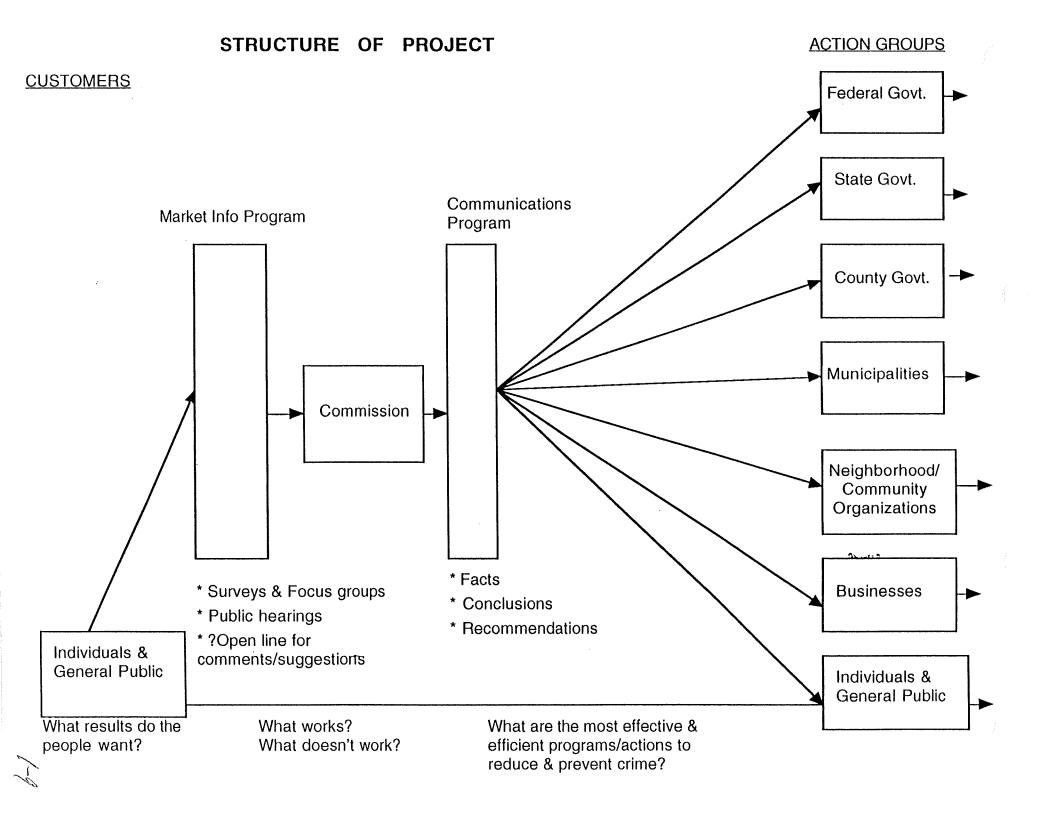




#### COMMISSION WORK PROCESS







## B. THE CRIME PROBLEM - Early Observations

- \* What is it?
  - as experienced/perceived by the people of Kansas
  - as shown by the data/statistics

### THE CRIME PROBLEM - Early Observations

### AS THE PEOPLE EXPERIENCE / PERCEIVE IT

- \* Commission will do extensive survey work with the people of Kansas
  - just beginning . . .
  - . . . however, already lots of . . .
    - phone calls
- letters
- contact with people on the farms and streets of Kansas
- \* Observations to date:
  - "I want to be safe in my school, so I can learn."
  - "Three strikes? why not just one?"
  - "What about the victims of crime? who cares about them?
  - "I can't go out at night anymore; why are the law-abiding citizens afraid? . . . but the criminals apparently are not.
  - "The criminal who kills gives the victim's family a life sentence."
  - dramatic change in lifestyle of law-abiding citizens last 1-2 years
  - fear of random, unprovoked, violent attack against innocent people, primarily by violent youth or repeat offenders

## WHAT DO THE PEOPLE OF KANSAS WANT?

So far, seems to be

- Public safety
- Justice
- Fairness

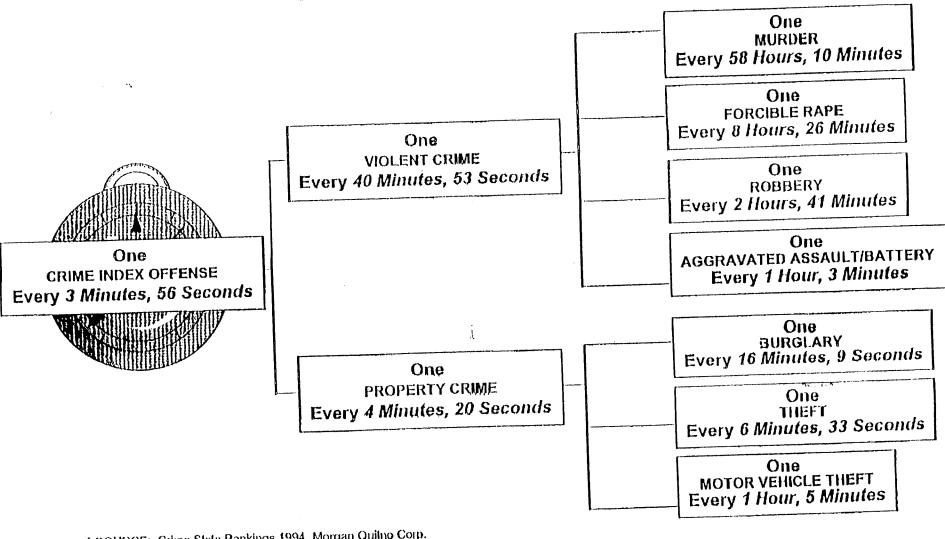
## THE CRIME PROBLEM - Early Observations

Look at data/statistics

- national
- Kansas

1-13

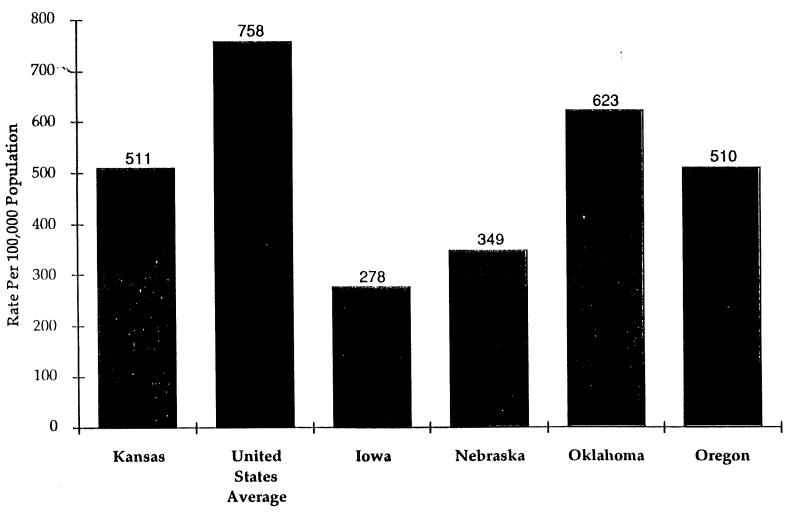
## Kansas Crime Clock - 1992\*



\* SOURCE: Crline State Rankings 1994, Morgan Quilno Corp.

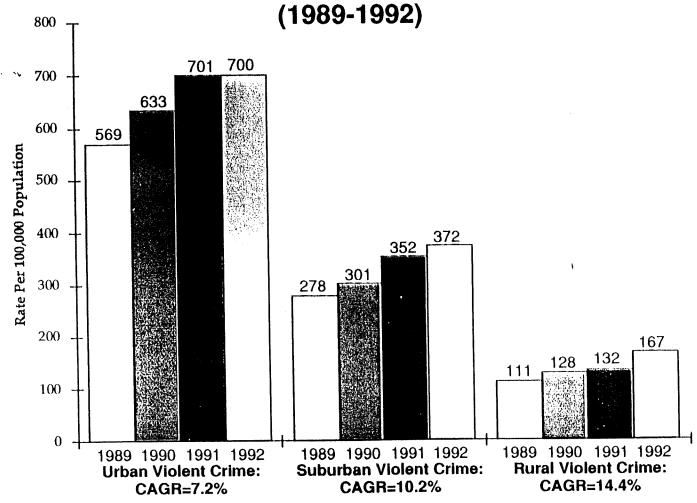
Lucas, McPhee & Company 2

## 1992 Incidence of Violent Crime



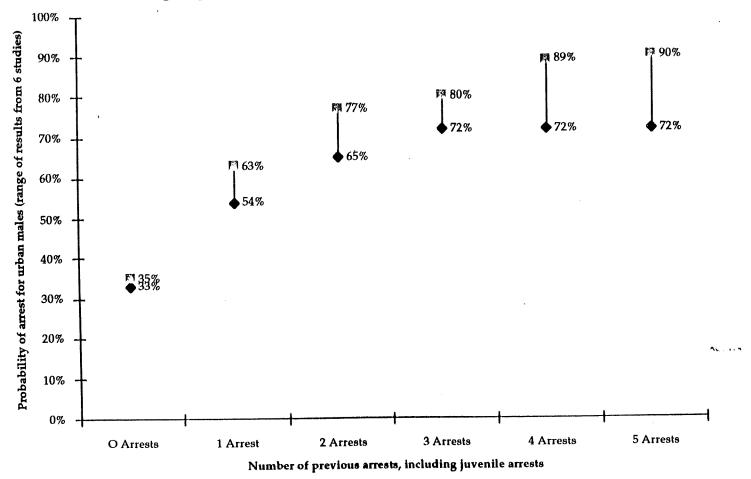
Source: Uniform Crime Reports, 1992





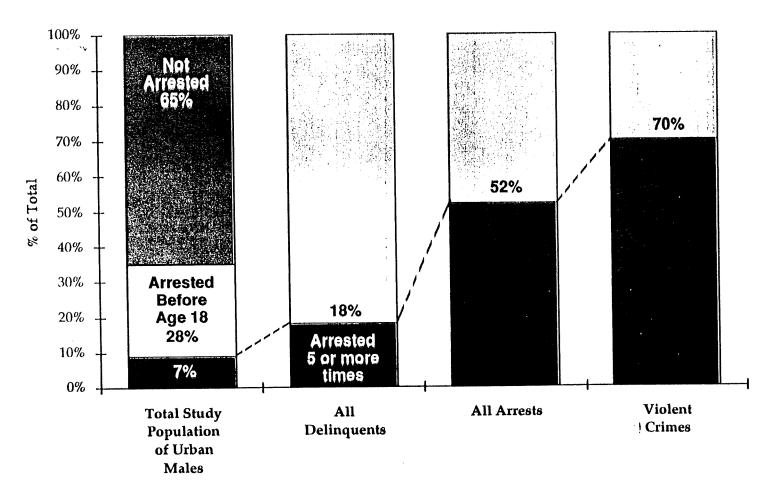
Source: Uniform Crime Reports, 1989-1992

## The Best Predictions of Future Criminal Activity Are Age of **Onset and Number of Past Offenses**



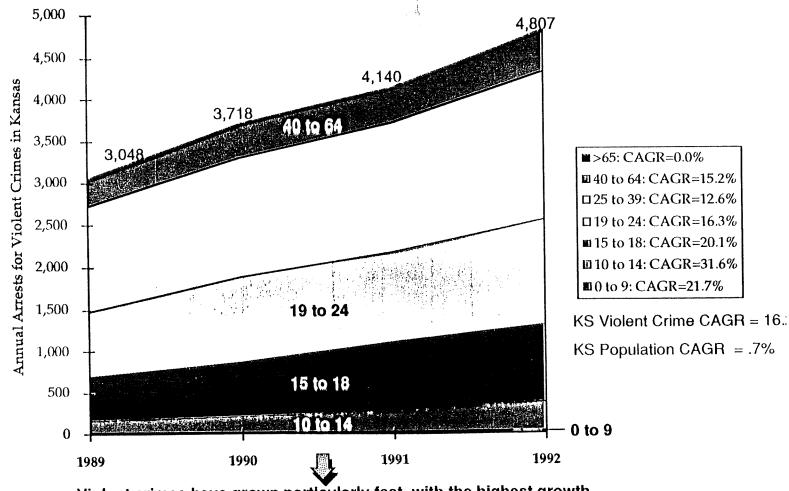
Source: "Criminal Careers & Career Criminals" Vol. I, II; 1986

## **Chronic Offenders Account For A Disproportionate Number** of Total Arrests and Violent Crimes



Source: "Criminal Careers & Career Criminals" Vol. I, II; 1986

## Age Trends for Kansas Arrests for Violent Crimes (1989-1992)



Violent crimes have grown particularly fast, with the highest growth coming in the 18 and under age groups

Source: State of Kansas Juvenile Justice and Delinquency Prevention Plan, 1993



### THE CRIME PROBLEM - Early Observations

- \* As the data shows
  - Small % of people do large % of crimes
  - Repeat offenders do large % of crimes
    - "Most of our predatory violence is committed by chronic offenders who are cycled in and out of corrections facilities", former U.S.Attorney General William Barr
    - These chronic recidivists do
      - 52% of the crimes
      - 71% of murders
      - 73% of rapes
      - 82% of robberies
    - In fact, crime appears to be an addiction
      - One-time offenders do only 16% of the crimes
  - Juvenile crime exploding
    - \* 10-14-yr.-old violent crime in Kansas increasing 31% per year

## THE CRIME PROBLEM - Early Observations

### WORSE, STATISTICS UNDERSTATE MAGNITUDE OF PROBLEM ....

**-**

Many crimes not even reported

-1992-

	<u>U.S.</u>	<u>Kansas</u>
No. of Index Crimes Occurring (estimated)	<b>36</b> , <b>0</b> 00,000	300,000
No. of Index Crimes Reported	14,4 <b>3</b> 0,000	।34, <u>२</u> २२
No. of Arrests against reported crimes	ર,મ84000	23,549
No. of Formal Felony Complaints	<b>2,600</b> ,000	NA
No. Convicted/Sentenced	52 9,000	. 44
No. sent to Prison	340,000	2,802

### .... AND ALSO UNDERSTATE SEVERITY OF PROBLEM



\* Plea bargaining - criminals often don't get charged with their most serious crimes

# C. EXISTING CRIMINAL JUSTICE SYSTEM - Early Observations

* System	
* Criminal Records	
* Criminal (Justice) Information Systems	
* Juvenile Justice System	
* Apprehension / arrest / policing	
* Prosecution	
* Sentencing	
* Corrections/prisons	
* Parole	

\* Rehabilitation

1-22

# EXISTING CRIMINAL JUSTICE SYSTEM - THE SYSTEM

### Criminal Justice System begins at the point crime is committed

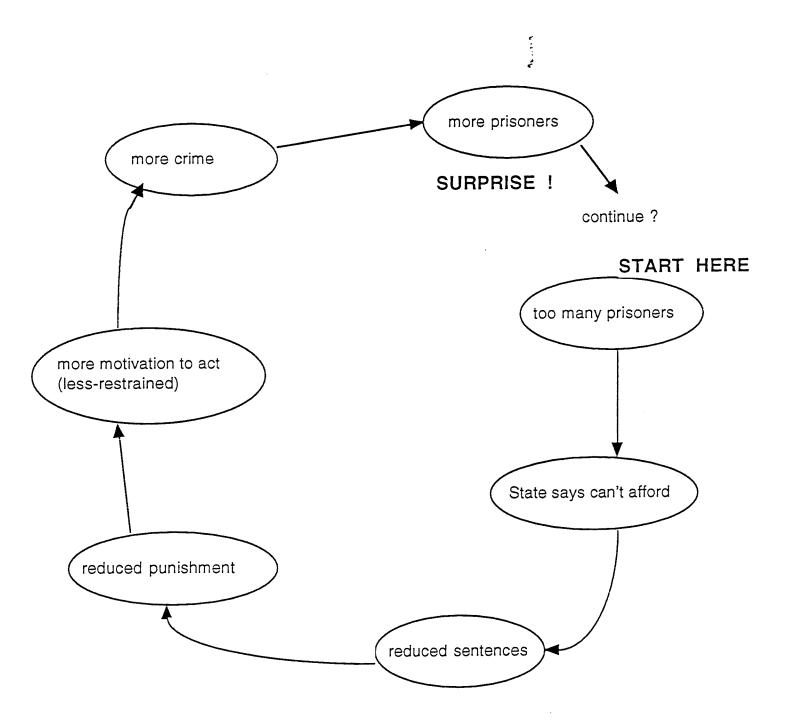
- Purpose: to serve (fair and appropriate) justice for crimes committed
- Hopefully also: to deter or prevent crime

### Existing system is

- not effective at either of above
- not efficient in what it does
- overloaded, leading to compromises which may make problem worse
  - plea bargains
  - reduced sentences

## POTENTIAL

### DOOM LOOP



# EXISTING CRIMINAL JUSTICE SYSTEM - CRIMINAL RECORDS

- \* Necessary to operation of system
- \* Critical to repeat offender identification
- \* Issue of access

Essential today for criminal history requirements of

- Repeat offenders
- Recent sentencing laws
- Brady Bill mandates
- Basic law enforcement operations

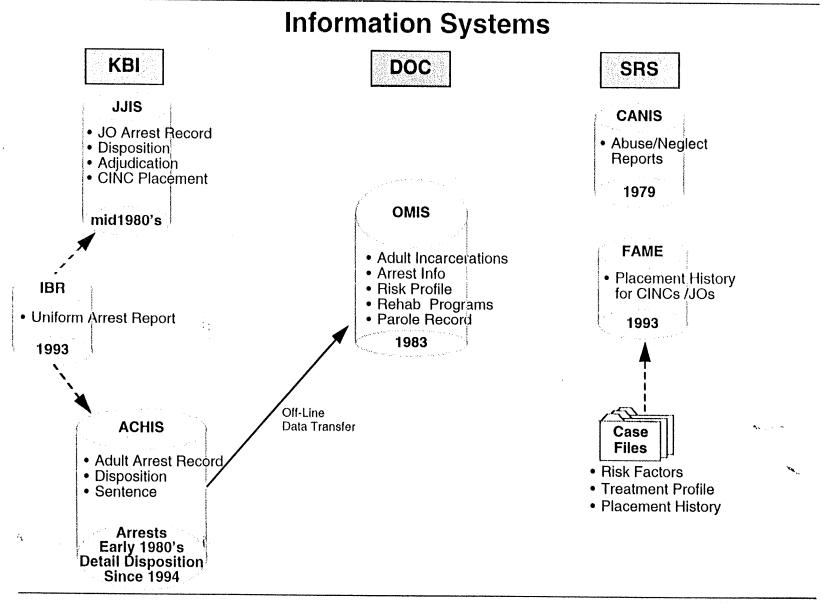
Example of need - 1994 Polly Klaas case in California

- \* 12-yr.-old girl kidnapped from home and murdered
- \* Alleged killer is
  - twice-convicted kidnapper
  - on parole . . . . . after serving half of a 16-yr. sentence
- \* Alleged killer detained by police for 38 minutes later that night (... on coincidental trespassing violation)
- \* Squad car officers did not know who they were dealing with . . . although APB had been issued
- \* Police central had not transmitted APB to squad cars because of "privacy" . . . concern that media would intercept message
- \* Alleged killer released squad car officers did not have information
- \* If APB had been available to squad car, ... officers could have arrested.
- \* If criminal history had been available to squad car, ... officers would have known who they were dealing with.
- \* Note: Alleged killer had benefitted from poor information on 3 previous violent offenses against women
  - plea-bargained, and judge was not aware of previous record

#### KANSAS TODAY

- \* Needs
  - Criminal information system that is
    - structured efficiently
    - up-to-date with current data
    - tracking the data needed by users
    - tracking of offenders from first offense
    - easy to use by all appropriate users
    - integrated appropriately with juvenile information systems
- \* Organization an issue
  - Departmental approach to systems no overall System view
    - not compatible, can't interact to share data
- \* Data is not accessible
  - Little or very difficult access to data by many who need it
    - court personnel
- county prosecutors
- Even departments with the data do not have good "query" capability

### **Koch Commission**



- \* Some agencies have little computer capability beyond word processing
  - Parole Board (none)
  - Department of Corrections (little)
- \* Severe backlog problem in data entry operations

JJIS	Juvenile Justice Info. System	<ul><li>* 12-15 mo. data entry backlog</li><li>* no query capability</li></ul>
ACHIS	Adult Criminal Info. System	<ul><li>* 12-mo. backlog arrest info</li><li>* 9-mo. backlog disposition info</li></ul>
IBR	Incident-Based Reporting	* Source of backlog for JJIS and ACHIS
OMIS	Offender Mgmt.	<ul><li>* Reliability of data?</li><li>* ( Lot of offender self-reporting - not verified)</li></ul>
CANIS	Child Abuse and Neglect Info. Sys.	* Unreliability of data (Report considered confirmed if within 30 days, data input clerk does not receive notification from field worker that report is unfounded.)

- \* District Attorney examples of being unable to secure ádequate information within required 48 hours to hold suspects
- \* Needs Assessment necessary to qualify for Federal assistance
  - Kansas is behind
  - For lack of \$30,000, could not get \$120,000 Federal money to fund assessment by outside consultant
  - Now doing internally
- \* Data Communications
  - Congratulations to Legislature for foresight
  - Kansas has one of the most modern and efficient data communications networks of any state government
    - Looks relatively easy to add links/capacity . . .. . . to gather and distribute justice data . . .. . . from/to county and local entities.

#### OTHER STATES

- \* Some have integrated Juvenile Tracking Systems (Oklahoma, Arizona)
- \* Missouri bill to establish Integrated Justice Information System
  - pay for it with \$7 /case filing fee in courts

# EXISTING CRIMINAL JUSTICE SYSTEM - JUVENILE JUSTICE SYSTEM

### URGENT - Juvenile Crime Exploding - Needs Total Study/Rework

Juvenile arrests

- total number

- for "index" crimes - number

- % of Kansas total

1992

25,560

9,873

Juvenile Justice System needs attention; major faults seen/express by

- public

- law enforcement

- juveniles themselves

Good background work published by Reinventing Kansas Government project

# EXISTING CRIMINAL JUSTICE SYSTEM - JUVENILE JUSTICE SYSTEM

#### Intake system needs improvement

- Tampa, Florida system good example
  - Prompt, thorough case evaluation

### Disposition alternatives / process needs improvement

- \* Limited options available encourages plea bargaining
- \* Separation of offender classes
  - violent / non-violent
- \* Is some form of boot camp program a good alternative?

### Penalties / Consequences need Structuring / Clarification

- \* Consequences for both felonies and misdemeanors are often the same
- \* Juvenile offenders even complain
  - "They never did anything to me when I got in trouble."
- \* Some judges trying restitution community service

# EXISTING CRIMINAL JUSTICE SYSTEM - JUVENILE JUSTICE SYSTEM

Juveniles - Probably the most important part of the crime problem

### **Koch Commission**

## Intake

		KS Intake	Topeka Intake	<u>Tampa Intake</u>	Possible Improvements <u>For Kansas</u>
Site: • Po		Police station	<ul> <li>Police Station, Detention Center</li> </ul>	Juvenile     Intake Center	<ul> <li>Separate center may not make sense - High cost</li> <li>Separate area linked to detention or emergency center may be more cost effective</li> </ul>
	fender Type: ocess Steps:	• All offenders	All offenders	<ul> <li>Truants, felons (misdemeanants planned soon)</li> </ul>	<ul> <li>Include truants and other status offenders</li> </ul>
A R R	File arrest report Booking	<ul><li>Arresting officer</li><li>Arresting officer</li></ul>	<ul><li>Arresting officer</li><li>Arresting officer</li></ul>	<ul> <li>Arresting officer         (Free to return to         work after this step)</li> <li>Intake officer</li> </ul>	
E S T	Detention Screening	Arresting officer	<ul><li>Arresting officer</li><li>Case worker</li><li>Subjective</li></ul>	<ul> <li>Intake officer</li> <li>Case worker</li> <li>Done by objective offense point system</li> <li>By statute</li> </ul>	<ul> <li>Objective offense criteria combined with subjective behavioral criteria may be best solution</li> </ul>



For the most part KS has an effective process through here

# Intake **Process Steps (continued)**

E	~	KS Intake	Topeka Intake	Tampa Intake  Objective by statute	Possible Improvements <u>For Kansas</u>
V	Prior Profile	• Usually not done	<ul> <li>May or may not be done</li> </ul>	• Case worker	Accessibility to and cross-training on different
A L		Data not easily accessible nor timely to retrieve	<ul> <li>Data not easily accessible nor timely to retrieve</li> </ul>	<ul> <li>All data terminals <ul> <li>easily accessible</li> <li>Education</li> <li>Social Services</li> <li>Health Services</li> <li>Criminal Record</li> </ul> </li> </ul>	systems needed
U A T	Risk Factor Screening	• None	<ul><li>Subjective</li><li>Done by Case Worker</li></ul>	<ul> <li>Objective</li> <li>Done by POSIT Test</li> <li>Screens for ten Risk Factors including: <ul> <li>Abuse/Neglect</li> <li>Substance Abuse</li> <li>Violent Behavior</li> </ul> </li> </ul>	Select and use a screening test
0	In-Depth Assessment	• None	• None	<ul> <li>18% of cases get this far 90% should</li> <li>Done by psychiatrist or other clinician</li> <li>Left to parental discretion as to whether child is assessed</li> </ul>	Create pre-triall ability for judicial mandate
N	Service Referral	• None	• Little to none	<ul> <li>Referrals made but no follow-up to ensure service was delivered/received</li> </ul>	
		Majo	or opportunity for	improvement	



# **Koch Commission**

# **Detention**

	Home/ Guardian	Emergency Shelter	Detention Center	Other Residential Facility	Jail
Who is sent:	Minor offenders - Misdemeanants - Status offenders - Non-violent felons	Suicidal Unstable Non-violent felons Repeat misdemeanants	Violent offenders Suicidal Unstable Chronic repeat offenders	Repeat misdemeanants Poor family environment Family rejection	Rural offenders where no detention center exists
Facility Type:	Non-secure	Non-secure Intense supervision	Secure Intense supervision	Non-secure Minimal supervision	Adult Secure
Purpose:	Wait for trial	Hold Stabilize Evaluate in some cases	Hold Stabilize Protect public safety Evaluate( in some cases)	Separate from family	Hold Protect public safety
<u>lssues:</u>	Slap on wrist Potential risk to public safety No rehabilitation No evaluation	Mix of populations: CINCs & JOs Risk of escape No rehabilitation Too few evaluated Costly	Too few evaluated No rehabilitation Mix of populations: Minor to serious offenders Costly	Risk of escape No rehabilitation No evaluation	Violation of JJDP
		evaluation resul	ure comprehensions in development of the comprehension of the comprehensions are the compre	ent of	



# EXISTING CRIMINAL JUSTICE SYSTEM - APPREHENSION/ARREST

Arrest is the weakest point in the system (many criminals get away with crime)

#### % of crimes that result in arrests

Crime	<u>National</u>	<u>Kansas</u>
All Crimes	21 %	? est. 19%
Murder	65 %	75 %
Aggravated assault	56 %	36 %
Rape	52 %	23 %
Robbery	24 %	20%
Burglary	13 %	11 %
Larceny-theft	20 %	19 %
Motor vehicle theft	14%	9%

Source: FBI's 1992 Uniform Crime Report

# EXISTING CRIMINAL JUSTICE SYSTEM - POLICING / ARRESTS

#### Studies show

- About 50% of convictions result from . . . arrests by about 12% of police officers
- But, most productive officers get about same number of commendations as the least productive ones.

#### San Francisco studies show

- 50% of police officers in "overhead" jobs at desks
- 25% on the streets writing tickets
- 25% on the streets to deal with what public perceives as real problem

"Community policing" appears to be a step in the right direction

#### What about Kansas?

- Don't know yet, but . . .
- Note Topeka "shakeup" under new Police Chief Beavers

### **EXISTING CRIMINAL JUSTICE SYSTEM -**

#### **PROSECUTION**

- \* Philadelphia, Pa. (1990) 32,880 defendants simply failed to appear
  - system incapable of tracking them down and bringing to court
- \* Kansas judges indicate problem of response to arrest warrants
- \* Plea bargains allow criminals to escape punishment for crimes they actually committed.
- \* 45% of national adult felony arrests do not result in an indictment
- \* Only 3-10% of all cases nationally go to trial
- \* Kansas data?
  - don't know yet
- \* Note: Kansas Judge's comment that courts spend most of their time on civil cases, not on criminal cases

# EXISTING CRIMINAL JUSTICE SYSTEM - SENTENCING

- \* What is fair and appropriate (just) punishment/consequences for crime?
- \* Commission has not studied Sentencing yet
- \* Consider "3 Strikes and You're Out" example, though
  - Washington state enacted law in 1993
  - Not new though; . . . tried in 1920s and 1930, . . . . origin of "3-time loser"
  - Polls show 80% of voters nationwide favor it
  - Endorsed by almost all country's top politicians (including President Clinton)
  - 30 states considering it
  - Federal govt. considering legislation
  - But, legal experts say most prospective laws poorly drafted
    - too wide a net leads to huge cost of incarcerating large numbers of non-violent offenders

# EXISTING CRIMINAL JUSTICE SYSTEM - CORRECTIONS/PRISONS

#### Prison is cost-effective, in one sense

- Studies show crimes committed by the average offender cost society at least twice as much as their prison cells do.
- but can it be more effective and more efficient?

#### Prison - how should it be?

- \* Criminals say
  - "It's not so bad. I get 3 squares a day. The TV and the gym are great. All my buddies are there.
     And I get to learn - advanced training in crime."
- \* Kansas citizens ask us
  - Why don't prisoners have to work?
    - as a principle
    - to pay for their care cost
    - to pay restitution for their crimes
    - to rehabilitate and learn marketable job skills
  - Why is prison life so "soft" for the criminal?

# EXISTING CRIMINAL JUSTICE SYSTEM - PAROLE

#### Kansas now has more parolees than prisoners:

	No. of Prisoners	No. of Parolees
Dec. 1992	6,033	5,730
Dec. 1993	5,732	6,280

#### Should parole be abolished?

- More than a dozen states, and the federal govt., have done so
- 50% of all new prison admissions in California in 1987 were parole violators
- 32% of all the murders solved by police are committed by criminals out on bail, probation, or parole

# EXISTING CRIMINAL JUSTICE SYSTEM - PAROLE

#### Sentences given are not being served

- Virginia reports many convicts serve only 1/6th of sentence
- Massachusetts is typically one year served for a 10-yr. sentence
- Kansas?

#### Federal Bureau of Justice Statistics show

- average time served (all offenses) fell.... from 28 months in 1960 to 22 months in 1990
- murderers released in 1990 served average of 7.5 years

# EXISTING CRIMINAL JUSTICE SYSTEM - REHABILITATION

\* Have not looked at yet

46 1-48

# D. THE SOCIAL SYSTEM

The Criminal Justice System is complex itself
- Lawmakers plagued by the "Law of Unintended Consequences"
But, the Criminal Justice System is part of the whole Social System
which is really complex
Society has to look at
- effectiveness, and
- cost/benefit efficiency
of the total system.
Prevention may be a more cost-effective part of solution
Prevention has one huge human advantage

....NO VICTIM!

48 SC~

### D. THE SOCIAL SYSTEM

# JUVENILE CRIME, for example

Search for solutions brings us face-to-face with societal issues of

- families
- values
- culture

which reach beyond the Criminal Justice System.

### **Demographics**

#### Low socio-economic status

ACTIONABLE

NON-ACTIONABLE

### **Family Related**

- Children with parents who had criminal or juvenile records were 2x more likely to be convicted
- Children with parental discord/conflict were 2x more likely to be convicted
- Poor parenting (single parent/abuse/neglect/other factors) by age 8 significantly increased convictions at age 10-13

### School/Social Performance

- 42% of children with low grades had juvenile court records vs. 9% for above average
- Early anti-social behavior: 62% of troublesome students identified by teachers at age 8 had convictions by age 25
- 59% of 14 year olds with delinquent friends had convictions before age 25

#### Drugs

 Drug use - especially use of several drugs

Males 3x more likely to participate than females; 5x more likely for index crimes

Blacks are 3x more likely to participate than whites and 4.5x more likely to commit serious crimes

· Heredity: Several Scandinavian studies have indicated genetic links to delinquency and criminal behavior

Source: "Criminal Careers & Career Criminals" Vol. I, II; 1986 "Understanding & Preventing Violence", N.A.S. 1992

#### **Koch Commission**

## **Risk Factors For High Frequency**

(A summary of available research)

# Age at Onset

- Criminals who began their careers from 7 to 11 or had 1st convictions by age 10-12 had:
  - Longest career length
  - Highest frequency of offenses
  - Most serious acts

# Prior Criminal Involvement

- 69% of those arrested as adults had been arrested as J.O.'s
- 50% of J.O.'s convicted of a serious crime were later convicted of serious crimes as adults

#### Drugs

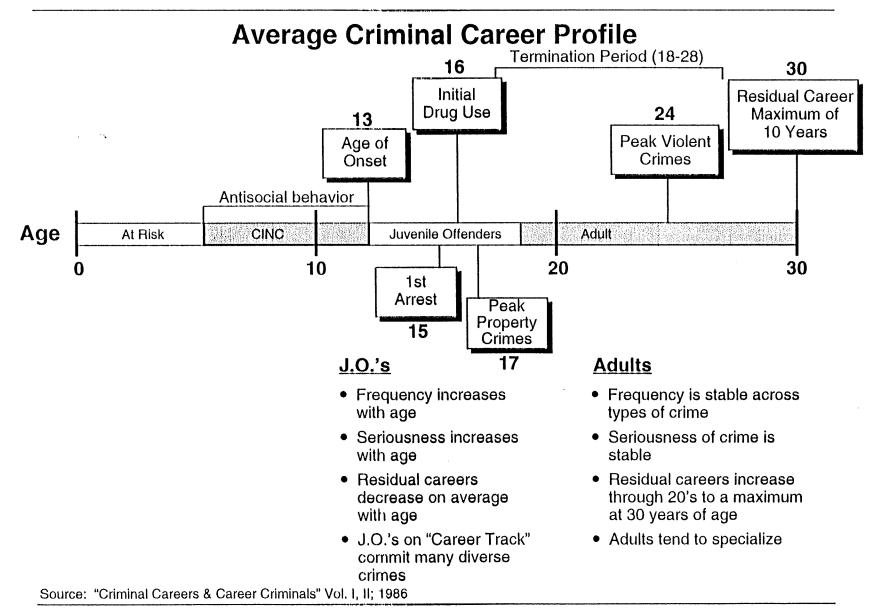
- Drug-using criminals committed 2x as many offenses
- Heroin users averaged 6x as many crimes as nonuser criminals

### **Employment**

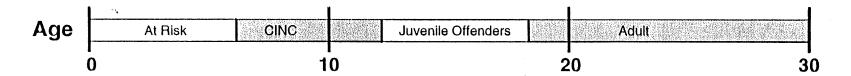
 Prolonged unemployment/irregular employment

Source: "Criminal Careers & Career Criminals" Vol. I, II; 1986 N.A.S.

ACTIONABLE



## **Policy Implications**



- Identify individuals
   with multiple risk factors for prevention
- Identify deviant/ troublesome delinquents for early intensive intervention
- Early/decisive/ appropriate actions at first contact with law
- Intervention for drug, family, and school risk factors
- 3 felonies "Hard Forty" mandatory sentence
- Intensive policing and selective incarceration for chronic offenders
- Use of juvenile records for sentencing at first adult arrest



Current system focuses on "Participation" vs. "Frequency."

## **Dimensions of Active Criminal Careers**

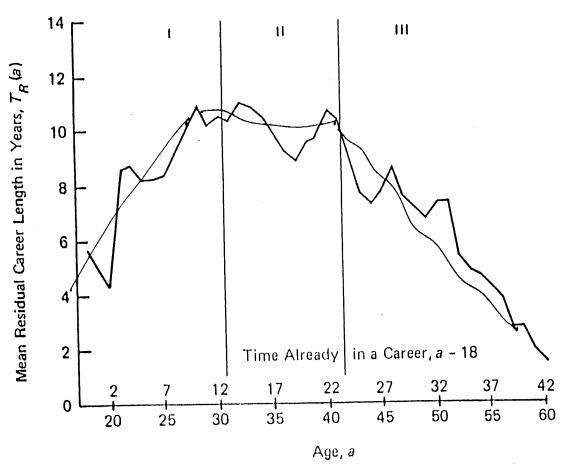


FIGURE 3-4 Variation in mean residual career length  $(T_R)$  with time already in a career (18- to 20-year-old starters only). Source: Blumstein and Cohen (1982:Figure 12).

## E. LEGISLATION - COMMENTS

#### \* BE CAREFUL

- Respond, instead of reacting
- Crime is a complex, system problem
- The actual effects are often different from the expected effects.
- Think through the likely consequences before acting.

### **LEGISLATION - COMMENTS**

## California example - "3 strikes" law just passed (March 1994)

- includes nonviolent, as well as violent, crimes
- counts any felony (even check-forging and drug possession)
- \* Reaction to voter anger over violent crime
- \* Legislature felt had to act
  - especially after 12-yr.-old Polly Klaas case
  - perception of election-year pressures
- \* Problems:
  - Casts too wide a net (not carefully targeted)
    - includes non-violent felonies (like bad checks)
  - Fiscally irresponsible
    - not balanced with funding program to pay for prisons needed

### **LEGISLATION - COMMENTS**

- \* Current laws not respected/obeyed
- \* Punishment currently on the books is not being served
- \* Kansas current legislation
  - 3 Strikes
  - Capital punishment
  - Juvenile offenders
  - Kansas Youth Authority
  - Criminal Justice Coordinating Council
  - other

## SUMMARY AND NEXT STEPS

- \* Be careful, think through likely consequences of proposals
- \* Need help of all let's work together
- \* Commission program will
  - be visible
  - interact with public
  - work with all aspects of crime problem
- \* I am personally committed to success!