

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

August 7-8, 2001
Room 519-S—Statehouse

Members Present

Representative Kathe Lloyd, Chair
Senator David Adkins, Vice Chair
Senator Pete Brungardt
Senator Greta Goodwin
Senator David Haley
Senator Nancey Harrington
Senator Kay O'Connor
Senator Lana Oleen
Representative Barbara Ballard
Representative Larry Campbell
Representative Bill Feuerborn
Representative Ward Loyd
Representative Janice Pauls
Representative Jeff Peterson

Staff Present

Stuart Little, Kansas Legislative Research Department
Jerry Ann Donaldson, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes Office
Jill Wolters, Revisor of Statutes Office
Shirley Jepson, Committee Secretary

Conferees

Albert Murray, Commissioner, Juvenile Justice Authority
Janet Schalansky, Secretary, Department of Social and Rehabilitation Services
Ken Hales, Deputy Commissioner, Juvenile Justice Authority
Bruce Linhos, Children's Alliance of Kansas
Paula Ellis, Assistant Director, Children and Family Support and Development,
Department of Social and Rehabilitation Services

Laurel Murdie, Audit Supervisor, Division of Legislative Post Audit
Kirk Thompson, Assistant Director, Kansas Bureau of Investigation
Chuck Simmons, Secretary, Kansas Department of Corrections
Mike McGee, Public Works Department, City of Topeka
Steve Williams, Kansas Department of Wildlife and Parks
Elizabeth Gillespie, Director, Shawnee County Department of Corrections
Sheriff John Foster, Johnson County

**August 7, 2001
Morning Session**

Chair Kathe Lloyd opened the meeting and the first item on the agenda was a review of the juvenile intake and assessment, including financial responsibility and non-offender juveniles, requested by the Chair because of concerns of financial responsibility brought forward during budget committee hearings on public safety. Representatives from the Juvenile Justice Authority (JJA) and the Department of Social and Rehabilitation Services (SRS) were present to give testimony.

The Chair recognized Albert Murray, Commissioner of JJA, who provided the Committee with written testimony (Attachment 1). Commissioner Murray stated that JJA and SRS have worked together to develop a "Memorandum of Agreement," dated June 27, 2001, which represents the joint commitment and common understanding between the two agencies concerning juvenile intake and assessment services. The memorandum defines and makes more clear the role and financial responsibility of each agency (copy included with written testimony).

Chair Lloyd recognized Janet Schalansky, Secretary of SRS, who continued with testimony on the review of juvenile intake and assessment (Attachment 2). Secretary Schalansky also distributed a report, which outlines SRS's financial commitments to intake and assessment activities (Attachment 3). In answer to a question from Chair Lloyd regarding what the intake and assessment piece means to SRS and if they had received complaints, Secretary Schalansky stated it brings a formal procedure to be used all across the state. The Secretary felt even though the Problem Oriented Screening Instrument for Teenagers (POSIT) questionnaire is long, the information gathered from this instrument is needed to determine what services the state can best provide for the juvenile. Commissioner Murray noted he was only aware of concerns or complaints in one county (Johnson County)—concerns that the questions on the POSIT might be overly intrusive or used to prosecute juveniles. The Commissioner noted he felt the POSIT was a very useful tool in making good decisions for the juvenile and there was no evidence it was used in the criminal process. In response to questions from Senator O'Connor, Commissioner Murray stated that the age group for use of the POSIT, by statute, is 12-18 years of age; the POSIT is voluntary and does not require an attorney to be present; the POSIT is used to determine the initial case plan of treatment; and juveniles are expected to participate in treatment. However, the POSIT is not set up as a punishment treatment.

Secretary Schalansky stated the POSIT is not used to remove a juvenile from the home, but is used as a piece of information to help the agency and courts determine the needs of the juvenile. Commissioner Murray noted, because of the concerns in Johnson County, he has set up a committee to look at other instruments and determine if any changes need to be made to the POSIT. In responding to another question from Senator O'Connor concerning the presence of a parent when the POSIT is given, both the Commissioner and the Secretary, as well as Michael George, Legal Counsel for JJA, stated that an effort is always made to contact the parent before the POSIT is given. Mr. George stated that in approximately 99 percent of the cases, a parent will be in attendance; however, there could be times when the parent chooses not to attend or contact could not be made for various reasons. Mr. George noted the POSIT is used to refer a juvenile for treatment, but no action can be taken against the juvenile if he or she refuses treatment. Commissioner Murray stated the Attorney General's office has been asked to review the POSIT and give an opinion. Both Chair Lloyd and Senator Adkins noted the problems in Johnson County have been ongoing for several years and, even though there are individual problems that need to be dealt with, they felt too much emphasis was being put on a few complaints. In response to a question from Representative Feuerborn, Commissioner Murray and Secretary Schalansky both stated new funding would probably be requested following further discussions between JJA and SRS and a decision will be made as to how the funding will be distributed—either all in JJA or divided between JJA and SRS. Commissioner Murray noted he expects the number of juveniles entering intake and assessment to grow in the next few years. The Commissioner stated because there are four statutes pertaining to the intake and assessment piece that sometimes conflict as to who should pay the bill, the department will work with the Governor's office in developing a proposal to be presented to the Legislature to address these problems. Representative Loyd asked the Commissioner to provide the Committee with a memo identifying these conflicts.

Chair Lloyd recognized Dr. Stuart Little, Kansas Legislative Research Department, who presented the Committee with a copy of a letter from Ken Hales, Deputy Commissioner of JJA, addressed to Senator Oleen, dated July 17, 2001 ([Attachment 4](#)). This letter was a response to an inquiry made at the Committee's July meeting concerning the availability of a federal grant to fund ombudsman services for juveniles. Mr. Hales, who was present, noted the Challenge grant funding would probably be for a three-year period with perimeters set up in the grant plan. In response to a question from Dr. Little, Mr. Hales indicated the grant moneys would need to be spent on program activity, not studies, etc. In response to a question from Senator Adkins as to whether an ombudsman for juveniles is needed, both Mr. Hales and Commissioner Murray noted they were responding to the inquiries of the Committee. They felt JJA's system to deal with juvenile complaints or problems in place at the present time, is very good and an ombudsman is not a priority for their department; however, if provided, they would use an ombudsman.

Dr. Little distributed copies of two articles which recently appeared in the *Kansas City Star* concerning the Juvenile Intake and Assessment Center in Kansas City ([Attachment 5](#)) as well as provided the Committee with copies of the monthly Juvenile Justice Authority report dated July 26, 2001, ([Attachment 6](#)).

Chair Lloyd asked the Committee to review a brochure on the Kansas Conference on Preventing Violence in Schools to be held in Topeka on September 11-13, 2001, by the Koch Crime Institute (KCI) ([Attachment 7](#)). It is suggested that the Committee might attend one day of the conference for their September meeting in lieu of a proposed trip to visit a residential facility in Columbus, Kansas. Dr. Little noted another topic for this interim Committee to discuss, in addition to topics already listed, might be programs available or offered to crime victims across the state. Dr. Little also stated that he understood the Kansas Sentencing Commission has several topics to bring before the Committee. Chair Lloyd noted that Senator David Adkins and Representative Shari Weber would give testimony on the two pieces of legislation introduced by the Committee. Senator Adkins requested that the Committee be updated on the school hotline by the Kansas Highway Patrol (KHP) or Kansas Department of Education, as a follow-up to the KCI conference.

Afternoon Session

Chair Lloyd recognized Bruce Linhos, Children's Alliance of Kansas, who presented some written information on the juvenile intake and assessment programs administered by Children's Alliance organizations in eight different judicial districts ([Attachment 8](#)).

Commissioner Murray returned to the podium and presented a review of the juvenile offender placement matrix and possible inclusion of "Good Time Credit" (pages 2-4 of Attachment 1). Also present were Jim Frazier, JJA Assistant Commissioner, and Ken Hales, JJA Deputy Commissioner. In response to a question from Senator O'Connor about the grid on page 3, Mr. Frazier stated there have been a small number of juveniles charged with a Violent I crime (murder) if determined by the court, as opposed to being determined an adult and tried in an adult court. Usually, these are juveniles who do not have a prior criminal history or there is evidence that they can be better served by the JJA, rather than an adult court. Responding to a question from Jill Wolters, Revisor of Statutes Office, Mr. Frazier indicated JJA has a number of juveniles who are charged under extended jurisdiction and given both a juvenile and adult sentence, meaning if they do not work out under JJA, they can be referred to the Kansas Department of Corrections (KDOC). Senator Haley questioned the variance of the bed requirements for FY 2008 through FY 2010, as noted on page 4 of the report. Mr. Frazier noted that data is compiled from current information by the National Council on Crime and Delinquency to achieve these projections. He further stated that with the use of the placement matrix, juveniles are sentenced for longer periods of time that may result in a stacking effect at the facilities. Commissioner Murray stated a new data projection is being done locally and this information will be made available to the Committee as soon as it is available. In response to Senator Harrington's question concerning rates of success, Commissioner Murray felt it is too early in the program to have meaningful statistics; however, because juveniles are now in JJA's custody for longer periods of time, statistics will prove the program successful. In response to a question from Representative Peterson, Mr. Frazier indicated the superintendent of the juvenile facility has the jurisdiction to decrease good time, if so warranted. In response to a question from Senator O'Connor with reference to the news article written by Sabra Kline, Commissioner Murray stated that

information from the POSIT cannot be provided to a prosecutor to use in the prosecution of the juvenile. Mr. Hales stated the court does not receive information from the POSIT—only the findings from the POSIT, which are used to place the juvenile in the best treatment program.

The Committee next reviewed a sexually aggressive juvenile offender project related to the JJA and SRS. Because the SRS Oversight Committee was not renewed this year, the Legislative Coordinating Council directed this Committee to review the project. Copies of the House Budget Committee report were distributed, with attention drawn to article 7 ([Attachment 9](#)). Commissioner Murray highlighted written testimony included in Attachment 1 (pages 5-7). In response to a question from Chair Lloyd, the Commissioner stated the number of juveniles coming into the system charged with sexual offender problems has probably not risen significantly; however, of those convicted of other offenses, it becomes clear from their record or behavior they may be more needy than those convicted of a sexual offense. JJA works to provide treatment, not only for those charged with sexual offenses, but also those who show a need for sexual offender treatment.

Chair Lloyd recognized Paula Ellis, Assistant Director of Children and Family Supports and Development for the SRS Children and Family Policy Division, who presented testimony on sexual offenders ([Attachment 10](#)). In response to a question from Chair Lloyd concerning one child molesting another in the home, Ms. Ellis indicated when a juvenile with an apparent sexual problem comes into their jurisdiction, they do a full assessment of the family and family home. Social workers are now able to do more to keep children safe in the home, such as installing motion detectors to monitor movement in the home during the night. In response to a question from Representative Loyd concerning the implementation of a program as outlined by the Budget Committee in the document distributed earlier, Ms. Ellis referred the question to Trudy Racine, SRS staff member. Ms. Racine stated during the course of the legislative session, a proposal with several alternatives was presented; however, as it went through the process, a legislative proviso was not written and no funding was set aside for the program. Ms. Ellis noted SRS is continuing to work to improve programs in place at the present time. In response to Representative Loyd's question with regards to a separate treatment facility for juvenile sex offenders, Ms. Racine felt the system should first work to treat the juvenile in the community. She stated more research needs to be done on developing outcomes for the treatment program. Representative Loyd asked for comments on how a sexual aggression treatment program conducted as proposed in the budget report would differentiate from the clientele that are received through the JJA system. Ms. Racine felt juveniles in need of treatment could possibly be identified through the mental health system before they enter the JJA system.

To clarify the proposal as written in the Budget Committee report, Dr. Little stated the proposal was written for the treatment of offenders or perpetrators, not the victim. This was not an SRS proposal, but was brought forth by the provider of residential care. The concern which brought forth the proposal was to have a treatment program available for sexually aggressive juveniles, mainly in foster care, who have not been charged or in JJA's custody. Chair Lloyd asked for data on the number of sexually aggressive juveniles who are in foster care and in need of a treatment program. In response to a question from Senator O'Connor concerning the success of the treatment programs, the SRS staff will research how long the

programs have been in place, success of programs, and report back to the Committee. Responding to a question from Senator Brungardt, Commissioner Murray stated the majority of juveniles who are in JJA's custody and need sex offender treatment are moved to the Topeka facility for treatment.

Chair Lloyd noted that because the agenda on August 8 includes a review of the status of methamphetamine laboratories by the Kansas Bureau of Investigation (KBI), a copy of the audit report completed by the Legislative Post Audit Committee in July 2001, is being distributed to Committee members for their review before the presentation (see Legislative Post Audit). Chair Lloyd recessed the meeting until 9:00 a.m., August 8.

August 8, 2001 Morning Session

Laurel Murdie, Audit Supervisor for the Division of Legislative Post Audit, presented an overview of the post audit completed on methamphetamine labs in Kansas, dated July 2001. Also present to give support testimony was Kirk Thompson, Assistant Director, KBI, and Kyle Smith, KBI. Responding to Representative Feuerborn's question concerning who did not return or participate in the survey, Ms. Murdie reported that 62 percent of the sheriffs, 45 percent of the police departments, and 45 percent of the prosecutors did return the survey. She felt these were good rates of return for the survey. In response to a question from Senator Harrington, Mr. Thompson, stated that generally, the people who are manufacturing meth in Kansas are Kansans who are supporting their habits. In addition, about 75 percent of meth coming into the state is brought in by Hispanic organizations from Mexico or California.

Responding to questions from Representative Campbell concerning the backlog of testing by KBI labs, Mr. Smith noted the law states a preliminary hearing must be set in ten days. This may vary because of the backlog of cases and the number of judges in each jurisdiction. The audit report indicated judges are dismissing some cases because the lab testing is not available. In answering another question, Ms. Murdie stated the reason it takes so long to get test results on a meth lab, is because there are so many pieces of evidence and equipment from the scene it may take as long as two days to complete the testing. Mr. Smith noted 98 percent of the labs producing drugs in Kansas at the present time are meth labs. Responding to another question from Representative Campbell, Mr. Smith stated the meth coming in on Kansas highways is through a highly organized effort, noting also the KHP is aware of the problem. Mr. Thompson stated there are a variety of odors associated with meth labs, but no lingering odor. He also noted the average meth user is a white male or female in their 30s. Responding to questions from Senator O'Connor, Ms. Murdie stated in referring to the percentages on page 19 of the audit report concerning coordination with KHP and the National Guard, perhaps the reason for the higher percentages under "fair" and "poor" might be because some areas of the state have not had contact with these agencies. Ms. Murdie indicated she would research the data to see if comments were included. With reference to field testing, Ms. Murdie stated field tests are not as accurate as lab testing. Mr.

Smith further stated field-testing is only accurate on controlled substances. Many times meth labs are not controlled substances. Most courts want scientific testing or want field-testing verified by scientific testing. Responding to another question, Ms. Murdie stated most hospitals are not reporting drug-related illnesses to the KBI, although KBI is interested in this information. In addressing the backlog of testing, Mr. Smith stated the KBI is contracting with a District Attorney's lab in Kansas City for assistance. He also noted federal money is being made available to hire four additional chemists and six additional agents. Because these agents will need to be trained, it could take 18-24 months to get the backlog resolved.

Mr. Thompson presented written testimony concerning the meth labs in Kansas (Attachment 11). In response to a question from Senator Oleen concerning charges, Mr. Thompson stated the charges leveled against an offender for either manufacturing or trafficking meth depend on their prior arrest history. Mr. Thompson indicated the KBI has a priority system in working with drug cases in that they work cases where there has been a prior drug history, children in the home, or violence associated with the case. In answering Senator Oleen's question concerning funding requests for the last several years, Mr. Thompson stated they had good support in working with subcommittees. Because during the 2001 Legislative Session, the Appropriations Chair has stated "no new spending," KBI was not able to get additional funds to fund the positions authorized. KBI is in the process of obtaining federal funds to fund these positions for one year. Senator Oleen voiced a concern the Legislature is passing laws without making funding available to support the legislation. In response to a question from Representative Loyd, Mr. Thompson indicated there is legislation which makes it necessary to report regulated chemicals; however, there is no requirement for retailers to report materials sold for possible domestic manufacture of methamphetamine. The "Meth Watch Program" is a voluntary program and he believes more needs to be done, although KBI has not had the resources to fully work with the program. Responding to Senator Harrington's question about explosions resulting in chemical burns, Mr. Thompson stated medical personnel are not required to report treatment given for chemical burns which may have resulted from an explosion in a meth lab.

Chair Lloyd recognized Chuck Simmons, Secretary, KDOC, who presented an update on inmate community work programs (Attachment 12). In response to a question from Representative Feuerborn, the Secretary indicated most of the agencies who use inmate labor provide the guards for the work program. At this time, Secretary Simmons introduced Mike McGee, Public Works Department, City of Topeka, who presented testimony on the use of two crews of inmates who do home renovation work for low-income families in the Topeka area. Mr. McGee indicated this has been a very successful program in which the inmates do exceptionally good work in helping the community and also resulting in job opportunities upon their release. Steve Williams, Kansas Department of Wildlife and Parks, was also present and explained the work that is done by inmate labor for the Department of Wildlife and Parks, indicating they have received about 138,000 hours of service from the inmate program. Mr. Williams stated the Department has a good partnership with KDOC and relies on this program to double the work force in the park system. In response to a question from Senator Harrington, Secretary Simmons stated there is no additional cost to the state for the inmate labor program. The local community picks up any cost associated with the inmate work project. Secretary Simmons noted minimum-security inmates are expected to work when they are incarcerated. The work program also gives the inmate an opportunity to

advance on the privilege incentive levels and receive good time credits. The maximum any inmate would receive on the work program is \$1.05 per day. With reference to a question from Chair Lloyd, Secretary Simmons indicated the VOCA grant KDOC has applied for would be administered through the Attorney General's office if approved.

Chair Lloyd recognized Roger Haden, Deputy Secretary, KDOC, who presented testimony on the National Corrections Conference of Mental Illness in Boston, which he recently attended along with other members of the state team (Attachment 13). Representative Loyd noted that as a result of an issue Senator Oleen brought forth, the Special Committee on Judiciary will be looking at drug courts as an alternative to incarceration and suggested that Mr. Haden might be available to testify before that Committee.

With regards to the agenda item on jail inspections, Dr. Little explained that during the last legislative session, there were several inquiries and complaints concerning who oversees or inspects the local jails. Because of these inquiries, this Committee heard testimony from Elizabeth Gillespie, Director of the Shawnee County Department of Corrections, to discuss the issue of jail inspections (Attachment 14). In response to a question from Senator O'Connor, Ms. Gillespie stated the Kansas Department of Health and Environment does some local inspections of juvenile facilities; however, there is no mandate for them to do jail inspections.

The Chair recognized Sheriff John Foster from Johnson County. Sheriff Foster did not have written testimony, but presented testimony on how jails operate. He commented that he was not opposed to jail inspections but felt there would be relatively few advantages. Sheriff Foster stated the jails operate according to CCA standards. He felt it is in the best interest of the sheriff's office to operate to the best standards possible. In answer to a question from Senator Brungardt, Sheriff Foster noted there is accreditation for jails through adopting the American Correctional Association standards. In response to a question from Senator Haley, Sheriff Foster stated the sheriff is responsible for all jail activities. Chair Lloyd suggested the Kansas Sheriff's Association might want to communicate the Legislature's concern about jail inspections to members of their organization. This communication might reiterate the training or assistance available, so that issue will not continue to come before the Legislature.

The next meeting of the Committee will be held on September 11-12, 2001. Chair Lloyd adjourned the meeting at 12:15 p.m.

Prepared by Shirley Jepson, Secretary
Edited by Dr. Stuart Little and Amy Kramer

Approved by Committee on:

October 8, 2001