

MINUTES

KANSAS DUI COMMISSION

August 6-7, 2009
Room 545-N—Statehouse

Members Present

Senator Thomas C. (Tim) Owens, Chairperson
Representative Janice Pauls, Vice-Chairperson (August 6)
Senator David Haley
Representative Lance Kinzer (August 6)
Greg Benefiel, Assistant District Attorney, Douglas County
Pete Bodyk, Kansas Department of Transportation
Major Mark Bruce, Kansas Highway Patrol
Honorable Jennifer Jones, Municipal Judge, Sedgwick County (August 6)
Wiley Kerr, Kansas Bureau of Investigation
Mary Ann Khoury, Victim advocate
Ray Dalton, substituted for Don Jordan, Secretary, Kansas Department of
Social and Rehabilitation Services (August 6)
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services
(August 7)
Sheriff Ken McGovern, Douglas County
Chris Mechler, Court Services Officer
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Jennifer Hermann substituted for Marcy Ralston, Kansas Department of Revenue
Honorable Peter V. Ruddick, 10th Judicial District
Dalyn Schmitt, Substance Abuse Professional
Les Sperling, President, KAAP
Jeremy Thomas, Parole Officer
Doug Wells, Attorney, Kansas Bar Association
Roger Werholtz, Secretary, Kansas Department of Corrections
Karen Wittman, Traffic Safety Resource Prosecutor, Attorney General's Office
Ed Klumpp for Policy Chief Bob Story (August 7)

Staff Present

Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Karen Clowers, Committee Assistant

Others Attending

See attached list.

Thursday, August 6 Morning Session

The meeting was called to order by Chairperson Thomas C. "Tim" Owens at 10:05 a.m.

Senator Owens distributed copies of an editorial dated July 18, 2009, by the *Topeka Capital-Journal* regarding the DUI Commission (Attachment 1).

Chris Mechler moved, Pete Bodyk seconded, to approve the minutes of July 1-2, 2009. Motion carried.

Commission members Les Sperling and Dalyn Schmitt briefed the Commission on Substance Abuse Interventions: Evidence-Based Practices (Attachments 2 and 3).

The Commission recessed for lunch.

Afternoon Session

The meeting reconvened at 1:05 p.m.

Legislative staff presented several briefings on subjects requested by the Commission during its meeting in July.

Jason Thompson, Revisor of Statutes Office, provided a review of the Kansas ignition interlock device statute and regulation (Attachment 4). Commission members discussed conflicting issues under current law.

Mr. Thompson continued with a brief on Continuous Alcohol Monitoring (CAM) in the states of Delaware, Missouri, Nebraska, North Carolina, Ohio, South Dakota, and Vermont (Attachment 5).

Athena Andaya, Kansas Legislative Research Department, referred to a memorandum from the Department of Revenue regarding the Kansas implied consent law to answer questions raised during the meeting in July (Attachment 6). Ms. Andaya also provided additional information from Pete Bodyk, Kansas Department of Transportation, regarding proposed federal sanctions against states that fail to enact and enforce ignition interlock devices for first-time offenders by September 2012 (Attachment 7).

Ms. Andaya presented a briefing on CAM use by courts and accuracy of device (Attachments 8 and 9).

Ms. Andaya continued with a briefing on EtG (Ethyl Glucuronide) and EtS (Ethyl Sulfate) Monitoring (Attachment 10).

Ms. Andaya concluded the briefings with a review of driver sanctions in other states and how they are monitored, how repeat offenders are tracked, and the number of states allowing DUI offenses to be handled by municipalities (Attachment 11).

A briefing on regional issues in DUI prosecutions was presented by Brian Sherwood, Assistant Finney County District Attorney, and Mike Nichols, Assistant Wyandotte County District Attorney (Attachments 12 and 13). Following the presentation the Commission discussed challenges under current law.

Matt Strausz of the Smart Start Interlock Company provided the Commission a presentation on the ignition interlock device offered by his company (Attachment 14).

The meeting was adjourned at 4:10 p.m. to the Dillon House for a demonstration of the ignition interlock device and the continuous alcohol monitoring device.

Friday, August 7 Morning Session

The meeting was called to order by Chairperson Owens at 9:08 a.m.

Senator Owens distributed an article from the *Topeka Capital-Journal* regarding the Commission's meeting from yesterday (Attachment 1).

Following a brief discussion on current record-keeping procedures and the goal of establishing a central repository for DUI records, the Commission broke into subcommittees for discussion of their assigned topics.

The Commission reconvened at 1:30 p.m.

Roger Werholtz reported the Subcommittee on Criminal Justice began with a discussion on the effectiveness of current strategies. The Subcommittee believes the current law for first-time offenders is sufficient. Secondly, the majority of the Subcommittee agreed on the need to criminalize refusal to submit to a breath test. The Subcommittee also would like to review the current response to juvenile offenders and possible recommendations to improve current law.

Les Sperling stated the Substance Abuse and Treatment Subcommittee would like to look at what is the absolute best approach, regardless of the cost, to determine which enhancements should be implemented.

Karen Wittman reported the Law Enforcement Subcommittee continued the discussion on the issues regarding records. The Subcommittee discussed the possibility of creating a two-page journal entry for every DUI as a solution to tracking repeat offenders. The Subcommittee would like to hear presentations regarding the current database capabilities of the KBI, Department of Motor Vehicles, and the Kansas Criminal Justice Information System (KCJIS) with respect to the creation of a central repository for records.

The next scheduled meeting is September 14-15, 2009.

Prepared by Karen Clowers
Edited by Athena Andaya

Approved by Commission on:

September 14, 2009
(Date)