

Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2015 Kansas Legislature

CHAIRPERSON: Senator Carolyn McGinn

VICE-CHAIRPERSON: Representative John Rubin

OTHER MEMBERS: Senators Molly Baumgardner, Oletha Faust-Goudeau, Steve Fitzgerald, David Haley, Jacob LaTurner, and Greg Smith; and Representatives Stephen Alford, Sydney Carlin, Peter DeGraaf, Jerry Henry, Brett Hildabrand, and Jim Ward

CHARGE

- Monitor Inmate and Juvenile-Offender Populations;
- Review and Study Programs and Activities of the Department of Corrections;
- Review Policy Choices from Data on Recidivism and Effectiveness of Youth Residential Centers;
- Continue Efforts at Juvenile Justice Reform; and
- Study Victim Notification.

Joint Committee on Corrections and Juvenile Justice Oversight

REPORT

Conclusions and Recommendations

The Joint Committee recommends:

- Greater oversight to ensure that reports required to be submitted to the Joint Committee on Information Technology are submitted and reviewed by the legislative Chief Information Technology Officer to make recommendations regarding each report's merit and related appropriations;
- Senate Judiciary, House Corrections and Juvenile Justice, and budget committee study of the Victim Information and Notification Everyday (VINE) program, which already is in use in 40 states, and how and whether it could be adopted, beginning at the county level, including how the State could assist in paying for the cost of implementation and operation;
- Legislative study of the law concerning minors in possession, especially as it pertains to persons 18-20 years old, and whether it should be decriminalized for this age group, noting that, at 18 years old, a person can vote and serve in the military but cannot legally consume alcohol;
- Senate Ways and Means and House Appropriations Committees' consideration of continued funding of SB 123 programs as the use of the General Fees Fund expenditures will not be possible in FY 2016; and
- Legislative review of the shortage of correctional officers, noting the starting salary is \$13.61 per hour, which makes recruitment more difficult, and the lack of increases in salaries impacts retention.
- **Proposed Legislation:** The Joint Committee recommends the introduction of legislation that would prohibit any juvenile offender convicted of misdemeanors from being committed to a juvenile correctional facility, regardless of previous history.

BACKGROUND

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight to provide legislative oversight of the Kansas Department of Corrections (KDOC) and the Juvenile Justice Authority (JJA). Pursuant to Executive Reorganization Order (ERO) 42, on

July 1, 2013, the jurisdiction, powers, functions, and duties of the JJA and the Commissioner of Juvenile Justice were transferred to KDOC and the Secretary of Corrections. KDOC operates eight correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental

Health Facility, Norton Correctional Facility, Topeka Correctional Facility (TCF), and Winfield Correctional Facility. KDOC also operates parole offices throughout the state and is responsible for the administration of funding and oversight of local community corrections programs. There are two operational juvenile correctional facilities (JCFs): Larned Juvenile Correctional Facility (LJCF) and Kansas Juvenile Correctional Complex (KJCC). Individuals as young as 10 and as old as 17 years of age may be adjudicated as juvenile offenders (JOs) and remain in custody in a JCF to age 22.5 and in the community to age 23.

The Joint Committee is composed of 14 members, with 7 members each from the House and Senate. In odd years, the chairperson and ranking minority member are House members, and the vice-chairperson is a Senate member, while in even years, the chairperson and ranking minority member are Senate members, and the vice-chairperson is a House member.

The Committee's duties, as outlined in KSA 2014 Supp. 46-2801(k), are to monitor the inmate population and review and study KDOC's programs, activities, and plans regarding its statutorily prescribed duties, including the implementation of expansion projects; the operation of correctional, food service, and other programs for inmates; community corrections; parole; and the condition and operation of the correctional institutions and other facilities under the Department's control and supervision. The Committee also is charged to review and study the adult correctional programs and activities and facilities of counties, cities, and other local governmental entities, including the programs and activities of private entities operating community correctional programs and facilities, and the condition and operation of jails and other local governmental facilities for the incarceration of adult offenders.

Similarly, the Committee is charged to review and study programs, activities, and plans involving JOs, including the responsibility for their care, custody, control, and rehabilitation, and the condition and operation of the state JCFs. Further, the Committee is charged to review and study the JO programs and activities and facilities of counties, cities, school districts, and other local governmental entities, including programs for the

reduction and prevention of juvenile crime and delinquency, programs and activities of private entities operating community juvenile programs and facilities, and the condition and operation of local governmental residential or custodial facilities for the care, treatment, or training of JOs.

COMMITTEE ACTIVITIES

The Joint Committee requested five meeting days and was granted three days by the Legislative Coordinating Council. In addition to its statutory duties, the Joint Committee was charged with studying juvenile justice reform, initial data collected to determine recidivism rates and overall effectiveness of Youth Residential Centers (YRCs), and victim notification. The Committee met October 14 and November 5 and 6, 2014.

October 14

Overview of Adult Inmate Prison Population

The Executive Director of the Kansas Sentencing Commission (KSC) summarized the adult prison population projections. The number of offenders admitted to prison and the length of sentence are the primary bases for the projections. In FY 2014, the prison population was 9,612, an increase of 31 inmates from 2013, or 0.3 percent. By FY 2024, the male inmate population will increase to 9,548 inmates, or 6.0 percent, from the FY 2014 population and will account for 92 percent of the forecast population. The female inmate population will increase to 803, an increase of 64 inmates or 9 percent by FY 2024.

Information also was provided on prison admission trends by admission type for FY 2010 through FY 2014. Finally, the Executive Director updated the committee on the impact of *State v. Murdock*, the legislative agenda for 2015, and the Justice Reinvestment Initiative Update.

Overview of KDOC Operations

The Secretary of Corrections provided an overview of the agency. KDOC's focus is to provide safe operations in the facilities, parole services, and the community; reduce recidivism; enhance juvenile programs and services; ensure

compliance with the federal Prison Rape Elimination Act (PREA) in correctional facilities; and continue to develop strategies to manage a growing prison population.

Kansas incurs high costs when offenders commit new crimes and return to prison due to both criminal justice system expenses and the costs suffered by crime victims. The Secretary stated 97 percent of Kansas' incarcerated offenders will be released back into the community and, of that number, 65 percent will return to prison within 36 months. Bed space expansion for FY 2011 through FY 2013 includes 668 permanent beds and 204 temporary beds for a total of 872.

The Secretary stated KDOC is the largest mental health provider in the state, and substance abuse or mental illness is a significant contributing factor for 75 percent of parole violators returning to prison. KDOC increased the number of specialized beds for mentally ill inmates from 382 to 553 but still must utilize a waiting list for placements. Approximately 126 more specialized beds are needed. KDOC has reduced the number of mentally ill inmates in restrictive housing by 350. These offenders are now assigned either to the general population or a treatment unit. About 70 percent of the mentally ill people who are incarcerated possess cognitive defects and, as resources allow, are receiving "Thinking for a Change" (T4C) programming. Research has shown a 19 percent recidivism rate for successful completers, compared to 35 percent for the overall population.

The Secretary indicated the Mentoring4Success program continues to be successful. By the end of September 2014, a total of 4,893 mentors were matched. The calendar year 2012 data show that offenders who had mentors at release recidivated at 10 percent at 12 months post release, compared to 21 percent for the overall population.

Activities at the end of FY 2014 included the completion of PREA audits at TCF and LJCF. Both earned exceptionally high marks for complying with federal standards. Under PREA, three correctional facilities will be audited once every three years on a rotating cycle. The audit

findings are encouraging because KDOC's highest priority is to ensure the safety of staff and inmates.

The Office of Victim Services (OVS) sent 15,433 notification letters, and 9,601 victims and survivors of crime received a total of 27,429 services from OVS between July 1, 2013, and June 30, 2014. Of these, 2,552 were first-time registrants. In a 2014 satisfaction survey, 98 percent of victims reported staff treated them with respect; 93 percent of respondents indicated staff showed concern for their well-being and their safety was taken seriously; and 87 percent of respondents indicated that, as a result of their contact with OVS, they felt more informed and able to plan for their safety.

KDOC is collaborating with the Kansas Department of Administration to develop recommendations to improve KDOC recruitment and retention efforts for corrections employees. The Secretary responded to questions on uniformed staff not having a pay increase since 2007 and stated there was a 8 percent increase to bring staff up to market level and a one-time bonus of \$250.

Overview of Contract Reviews

The Deputy Secretary for Facilities Management, KDOC, presented an overview of existing contracts. Aramark is the food services provider for the adult prison program and is responsible for labor, food, and supplies for all facilities except for Larned Correctional Mental Health Facility, where meals are prepared by Aviands. Aramark employs 123 staff and 19 inmate workers. Aramark provides a vocational program, Inmate to Work (IN2), which lasts six months and, upon completion, an Optional ServSafe certification is provided by the National Restaurant Association. There are 125 participants with 34 completions. The contract also provides the Fresh Favorites incentive food program, which pays 15 percent commission from net sales to the Inmate Benefit Fund for IN2.

Trinity Services Group is the food service provider for KJCC. It employs 7 staff, supervises 8 juvenile worker positions, and provides the Trinity Takeout incentive food program, paying 15

percent commission from net sales to the Juvenile Benefit Fund.

Corizon Health, Inc., provides medical services for the adult and juvenile populations, including medical, dental, and mental health care services and 24-hour emergency care. Services are provided at all adult and juvenile correctional facilities. Kansas University Physicians, Inc., provides medically trained management consultants to assist in managing the health care contract for both the adult and juvenile population. KDOC works with the Kansas Department for Aging and Disability Services and Medicaid for those inmates who are under 18 years of age, over 65 years of age, pregnant, or disabled.

Overview of Community and Field Services

The Deputy Secretary for Community and Field Services, KDOC, provided an update and review of the Corrections Community and Field Services Division, which includes Parole Services, Interstate Compact for Adult Offender Supervision, and Community Corrections. Currently, 4,728 offenders are under parole supervision. The Parole services caseloads have dropped to 10 and 20 per officer, which allows the officers to focus more closely on the high-risk offenders, due in part to the enactment of 2013 HB 2170.

The Interstate Compact for Adult Offender Supervision is mandated by federal and state law, and KDOC staff track all supervised offenders coming into Kansas for supervision and transferring from Kansas. The Community Corrections Act, which is designed to divert offenders from state correctional facilities, requires each of the 105 counties to participate. There are 31 judicial districts and 30 programs. The challenges to the community resources for offenders are emergency housing, treating those with mental illness, resources for substance-abusing offenders, and increasing sanction utilization. The administrative challenges are high turnover of employees, staffing levels, and aging vehicles.

Overview of Juvenile Services

Deputy Secretary of Juvenile Services, KDOC, provided an update. Between FY 2009 and FY 2014, there were decreases in all areas, including in intake and assessment events (23 percent); JO case files (24 percent); juvenile intensive supervision probation admissions (25 percent); juvenile intensive supervision probation average month-end population (25 percent); JCF admissions (29 percent); JCF average month-end population (13 percent); and juvenile custody population (14 percent, excludes JCF custody).

Admissions to JCFs for technical violations were down by 3.5 percent from FY 2013 to FY 2014, and the percentage of JCF admissions with only misdemeanor adjudications for FY 2014 was 15 percent. Both JCFs set goals to increase the number of youth who earned a high school diploma or GED. From FY 2011, the number of diploma and GED recipients increased by 11 percent. During the same time frame, the JCF population decreased by 8 percent. Both JCFs surpassed goals to increase the number of postsecondary credit hours.

Juvenile Services invests significant resources in the community for out-of-home placement costs. In FY 2012, nearly \$32 million was spent for various residential placements; expenditures for FY 2014 were nearly \$28 million. Roughly \$16.4 million was spent in FY 2014 on YRCs, the largest model type. Kansas is a high consumer of residential placements and has been working to be more in line with national averages and shift resources to Evidence Based Program models. KDOC's Juvenile Services Division implemented a multi-systemic therapy pilot program to provide intensive family and community-based treatment in Wyandotte County. This, with other KDOC efforts, resulted in a reduction of youth residential placements of more than 11 percent.

Review of Initial Data Concerning Youth Residential Centers

The Secretary of Corrections provided a preliminary analysis on data collected for YRCs. New Section 3 of 2014 HB 2588 required the Secretary to do the following:

- Conduct a cost study analysis of all YRCs under contract with KDOC, including allowable expenses necessary to meet minimum requirements and costs associated with services provided beyond minimum requirements;
- Evaluate YRC program needs, comparing these needs with availability and proposing modifications to align availability with needs;
- Develop a fee schedule for youth residential services, including daily payment rates for base services and rates for additions to base services;
- Develop a plan for performance-based incentive payment opportunities and a plan for integration of these payment opportunities into the fee schedule;
- Develop a plan to measure performance and evaluate effectiveness of JO service providers; and
- Ensure PREA compliance for the 15 group homes.

The Secretary also must report on those actions to the Legislature by January 15, 2015.

The instructions and tool were sent to the 15 contracted YRC facilities on August 1, 2014, requesting a response by October 1, 2014. Two remain unresponsive and one requested an extension. The next step is the collection of actual expenditure and income data for two years.

At the time of the meeting, KDOC was identifying and addressing gaps in data. The level of detail poses a challenge for centers, as not all data was previously tracked. Further, different accounting and business practices for each center may limit comparative data analysis. The performance data is collected on a monthly basis from each provider and captures youth demographic information, program involvement, program completion, YRC placement completion, data supplemented by KDOC research, and

assessed risk level conducted by community supervision agencies.

Partial results reflect that youth are engaged in programming and completion rates are reasonable. Preliminary analysis of need and performance shows a correlation with risk level—greater success with low-risk youth, and less success with high-risk youth.

November 5

Presentation of Additional Information Requested at the October 14 Meeting

KDOC officials provided additional information in response to requests from the October meeting, including information on how expanding Medicaid coverage could result in a reduction of the cost of medical services. The Director of Healthcare Services Family Medicine/KDOC/JJA Division, explained federal law prohibits Medicaid reimbursement to incarcerated individuals unless they are admitted for treatment outside of a correctional facility for more than 24 hours. Currently, offenders who are under age 21, over age 64, pregnant, or seriously disabled meet Medicaid criteria while also still meeting the criteria of indigence. This allows for annual reimbursements of \$600,000, which is reduced from the KDOC budget. If Kansas law allowed for expansion of Medicaid, approximately 90 percent of inpatient inmate hospitalizations would be covered at a savings of \$1.6 million annually, after hiring the two required full-time staff needed to manage the accounting and monitoring of the program.

Presentation of State Agency Information Systems Audit – Executive Session

The Committee entered executive session for a discussion of the security of KDOC information systems presented by Division of Legislative Post Audit staff.

Overview of Programs for Adults and Juveniles

The Secretary of Corrections provided an overview of programs for adults and juveniles within the correctional system. He explained offender assessment drives effective programs and

that programs are designed around empirical research. He added service delivery, disruption of criminal networks, training and supervision of staff, and program evaluation also are essential to effective programs. Program providers deliver services that allow 89 percent of eligible offenders in adult correctional facilities to receive program credit, as authorized in 2008 SB 14. This reduces the need for approximately 250 additional prison beds.

T4C is a cognitive behavioral intervention developed by the National Institute of Corrections (NIC). In FY 2014, 734 moderate and high risk offenders completed T4C at a cost of \$317 per participant. Research shows the state saves \$16.33 for every dollar spent on T4C completers.

Offender Workforce Development Services (OWDS) was developed by the NIC and the National Career Development Association. Participants learn basic job search skills, build an employment portfolio, and practice interview skills in a 40-hour program. Findings show a 33 percent reduction of recidivism in the first year following release. Partnering with education and vocational programs is important in addressing long-term retention and career advancement. In FY 2014, 988 moderate- and high-risk offenders successfully completed OWDS at a cost of \$317 per participant.

Substance abuse programming uses a cognitive behavioral, skills-building curriculum from the University of Cincinnati. In FY 2014, a total of 413 inmates completed substance abuse programming at a cost of \$3,338 per offender.

The KDOC Sex Offender Treatment Program (SOTP) is a facility-based program of cognitive-based, skills-building treatment. In FY 2014, a total of 244 offenders completed sex offender treatment prior to release, an increase from the previous year of 192, at a cost per offender of \$3,381 for the prison portion of SOTP. Sex offenders in the community receive treatment at 16 parole offices.

Kansas Correctional Industries (KCI) has two components: traditional industries, which are operated directly by KCI and employ 324 inmates; and private industries, which are operated by

private firms located in or near KDOC facilities pursuant to an agreement with KDOC. Private industries employ 577 inmates in prison-based industries and 363 inmates in non-prison-based industries. Correctional industry program participants have a recidivism rate of 18 percent.

Offenders who participate in correctional education have a 43 percent less chance of returning to prison. GED programs reduce recidivism by 8 percent and vocational education reduces recidivism by 10 percent.

In FY 2015, \$1.8 million was allocated for juvenile prevention programs in all 31 judicial districts. KDOC estimates 9,324 youth were served. Prevention programming includes Big Brothers Big Sisters mentoring, truancy programs, intervention programs, cognitive life skills courses, and youth support programs.

Overview of Changes to Juvenile Services Since Implementation of ERO 42

The Secretary provided an overview of changes to Juvenile Services since implementation of ERO 42. Key benefits of the consolidation are in the areas of administration, enhanced focus on programs, and security and safety.

November 6

Presentation on Juvenile Justice Reform

A representative of Federico Consulting, Inc., who assists indirectly with the National Campaign to Reform State Juvenile Justice Systems on behalf of the John D. and Catherine T. MacArthur Foundation appeared before the Committee. The National Campaign does not come to the state with a specific agenda or “one size fits all” idea, nor does it have a product, system, or consulting service to sell. The goal is to meet with key policymakers to determine what changes are deemed important, necessary, and achievable, and offer research and other resources to help the state accomplish its objectives.

The Executive Director, Kansas Appleseed, provided testimony on supporting a stronger Kansas juvenile justice system, which includes improving public safety, getting Kansas’ youth

back on a path to thrive, and building a more sustainable system. He studied the current system by interviewing stakeholders across the state and reviewing Kansas data, along with policies and outcomes from other states. To be successful, he noted, interventions must match assessments of a youth's individual risks and needs, and sustainability requires effective prevention and early intervention. The conferee provided information about other states' programs and steps to implement similar programs in Kansas.

Presentation on Victim Information and Notification Everyday (VINE)

The President of Public Safety Services, Appriss, presented information on the VINE system. VINE is automated, but sensitivity-trained service representatives are also available to assist victims. Automated calls allow staff to concentrate on direct victim service contact and messaging is consistent with every call. VINE repeats attempts to reach the registrant (national average for calls is eight). It is not a "one and done" system. VINE provides:

- A single point of access that follows offenders throughout the judicial system;
- Anonymity for victims and multiple types of notification methods to prevent victims falling through the cracks;
- Support for multiple languages on both inbound and outbound lines;
- Free web portal for local victim advocates to interact and assist victims;
- Dual data center with redundant architecture at two physical locations; and
- Multi-location implementation and support.

VINE is successfully implemented in more than 40 statewide programs, including 42 departments of corrections.

Presentation on Current OVS Practices

The Director of Victim Services, KDOC, provided information on OVS, which serves as a liaison between victims and department staff, the Prisoner Review Board, and victim service providers. The Office of Victim Services is committed to providing crime victims the opportunity to express their ideas and opinions. Any victim is eligible to receive notification services if the crime was committed by an offender in KDOC custody; witnesses and family members also are eligible for victim services. Liaisons work specifically with crime victims to provide information, advocate for the right to participate in decision-making, and assist with safety concerns. All services are confidential, free, voluntary, and victim initiated. Brochures are provided in both English and Spanish. The conferee provided information on KDOC victim notification coordinators, feedback and results on a 2014 victim satisfaction survey, and future plans for the program.

Presentation on SB 123 Programming

The KSC Executive Director updated the Committee on 2003 SB 123 programming, which is designed to divert non-violent drug possession offenders out of the prison population and provides state-funded drug treatment of up to 18 months to reduce recidivism among this group of offenders. KSC performs program administration, acts as the centralized payment center for treatment provider invoices, and certifies the treatment providers. Community Corrections supervises offenders who are on probation and collaborate with KSC and treatment providers. There are 30 community corrections agencies, which have contracts with more than 80 treatment providers in most geographical areas and, through this program, access to substance abuse treatment has increased throughout Kansas.

In FY 2015, KSC estimates the newly sentenced offenders will have higher treatment needs than in previous fiscal years due to changes to eligibility for the SB 123 program. Given the uncertainty of the effect of law changes, the agency is conservatively projecting expenditure levels based on FY 2014. Of the \$6.8 million in total expenditures, \$6.3 million will be from SGF,

and the remaining \$510,000 will be from the existing balance in the General Fees Fund. Use of the General Fees Fund expenditures for the SB 123 program will not be sustainable by FY 2016, however, due to an adjustment in the accounting of reimbursements from insurance providers and offenders. The KSC is requesting an enhancement of approximately \$460,000 from the SGF to cover expected payment needs for FY 2016, and \$180,000 in FY 2017.

Potential expansion options of the program include expanding to drug Level 4 small sales, non-drug grid crimes (*e.g.*, burglary and theft) that can be proven to be substance abuse-related, or repealing a special rule for third-time possession offenders that currently requires a presumptive prison sentence rather than SB 123 treatment.

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee recommends introduction of legislation that would prohibit juvenile offenders convicted of misdemeanors from being committed to juvenile correctional facilities, regardless of previous history.

Further, the Joint Committee recommends greater oversight to ensure that reports required to be submitted to the Joint Committee on Information Technology are submitted and reviewed by the legislative Chief Information Technology Officer to make recommendations regarding each report's merit and related appropriations.

The Joint Committee also recommends the Senate Judiciary, House Corrections and Juvenile Justice, and budget committees study the VINE program, which already is in use in 40 states, and how and whether it could be adopted, beginning at the county level, including how the State could assist in paying for the cost of implementation and operation.

Noting that at 18 years old, a person can vote and serve in the military but cannot legally consume alcohol, the Joint Committee recommends a legislative study of the law concerning minors in possession, especially as it pertains to persons 18-20 years old, and whether it should be decriminalized for this age group. The study should include whether federal highway funds would be lost if it were decriminalized. Similarly, a member suggested an analysis of minor-in-possession statistics in states where hard liquor and beer can be sold in grocery stores, where persons under 21 often are employed, to see whether there is a correlation between higher instances of violations in these states compared to states where it is not allowed.

The Joint Committee recommends the Senate Ways and Means and House Appropriations' Committees consider continued funding of SB 123 programs as the use of the General Fees Fund expenditures will not be possible in FY 2016.

Finally, the Joint Committee recommends a legislative review of the shortage of correctional officers, noting the starting salary is \$13.61 per hour, which makes recruitment more difficult, and the lack of increases in salaries impacts retention.