

Hey, Kansas! Our prison inmates are going home. In record numbers.

Too many of these offenders go home without a home to go to. They go home ill, physically and mentally, without means for treatment. They go home with continuing drug and alcohol addictions, without the will or the means for treatment. They go home ill prepared to work, to maintain themselves, to support their families if they have one, and without means to gain employable skills. They go home to communities that do not understand them or their needs. They fail, two in three re-offend, one in two is back in our prisons, all within three years of release.

We have been confronted with these facts and believe that our focus must be targeted not just on preserving public safety by removing dangerous individuals from society, but also on correctional reforms directed at breaking the unacceptably high level of recidivism. We do that by preparing offenders for a successful return to Kansas communities in the form of education, job training, and modification of criminogenic behavior. But that alone is not enough. For reentry to be successful, our communities must be prepared for the return of the offenders. Through collaboration, the revolving door of crime, punishment and recidivism can be slammed shut.

Smart correctional reforms are those that can reduce incarceration without jeopardizing public safety by the more effective management of the risks posed by certain offenders, the better deployment of public safety resources, and the design of systems to measure accountability for results.

John Foster Dulles noted that, "Of all the tasks of government, the most basic is to protect its citizens against violence." We submit that public safety will only be enhanced through implementing well-planned reentry initiatives that reduce recidivism and by allowing the state to use the resulting savings to adequately fund other important government services such education, job development, and public works projects that can help lower crime rates.

The Kansas Criminal Justice Recodification, Rehabilitation and Restoration Project Committee is working to that end.



INTRODUCTION

The legislative purpose in enacting this act shall be [the] establishment of a policy of treatment of persons convicted of felonies in this state by placing maximum emphasis on rehabilitation of each such person while in the custody of the state or under the jurisdiction of the courts of the state, consistent with the interests and safety of the public, so that a maximum of persons so convicted may be returned to private life in the communities of the state with improved work habits, education, mental and physical health and attitudes necessary to become and remain useful and self-reliant citizens.

It is the intent of the legislature that (these laws be construed and applied) liberally to rehabilitate, train, treat, educate and prepare persons convicted of felony in this state for entry or reentry into the social and economic system of the community upon leaving the custody [of the State].

K.S.A. 75-5201 (An Act Concerning Penal Reform, L.1973, ch. 339, §1.)

The Kansas Criminal Justice Recodification, Rehabilitation and Restoration Project Committee (the “3Rs Committee”) is established, with its duties and obligations assigned by statute, K.S.A. 2004 Supp. 22-5101.

In **Section I** of this interim report the Committee provides the text of its enabling legislation, which includes tasks and directives aimed at re-codifying the Kansas criminal code, tasks and directives aimed at identifying ways to rehabilitate offenders and to work with offenders on community-based supervision, and tasks and directives aimed at identifying ways to restore the offender as a productive member of society.

In short, the 3Rs Committee is considering how to best deal with the economic and social burden of crime and recidivism in a fiscally responsible manner, while maintaining the public safety of the citizens of our state.

The composition of the 3Rs Committee and its staff is provided in **Section II**.

The 3Rs Committee, in collaboration with those state agencies and other groups the enabling legislation requires it to consult and work with, has focused efforts on the effective implementation of 2004 HSub SB 45 since its effective date on July 1, 2004. **Section III** of this interim report presents a status update on the project to date of commencement of the 2005 legislative

session.

In **Section IV** we report on the focus of our committee efforts to date, including projects which have been authorized, and those which are underway, all of which hold the potential to change the environment of criminal justice within which we operate presently and, therefore, present the potential for opportunities for longer-term revision in the philosophy of criminal justice in Kansas. Considering the legislative intent expressed in K.S.A. 75-5201, quoted above, this potential represents the past returning to the future.

Finally, in carrying out its duties to date the 3Rs Committee has recognized the need for a greater focus on certain segments of our charge in the time available to the committee. To that end, the 3Rs Committee has exercised its authority to appoint three subcommittees to date. Those include a Recodification Subcommittee, a Behavioral Health Subcommittee, and, recently, a Reentry Subcommittee. **Section V** of this interim report discusses the intent and focus of the work of these subcommittees.

Respectfully submitted,
April 1, 2005

This year, some 600,000 inmates will be released from prison back into society.

We know from long experience that if they can't find work, or a home, or help, they are much more likely to commit crime and return to prison. So tonight, I propose a four-year, \$300 million prisoner re-entry initiative to expand job training and placement services, to provide transitional housing, and to help newly released prisoners get mentoring, including from faith-based groups.

America is the land of the second chance, and when the gates of the prison open, the path ahead should lead to a better life.

President George W. Bush
State of the Union, January 20, 2004

SECTION I – THE ENABLING LEGISLATION

22-5101. Criminal justice recodification, rehabilitation and restoration project; governance committee; duties; reports. (a) There is hereby created the Kansas criminal justice recodification, rehabilitation and restoration project.

(b) The project shall:

(1) Re-codify the Kansas criminal code by:

(A) Analyzing and reviewing all criminal statutes and criminal procedure, making recommendations for legislation that would ensure that the sentences are appropriate and proportionate to other sentences imposed for criminal offenses, with particular emphasis on the sentencing guidelines grid for drug crimes.

(B) Studying and making recommendations concerning the statutory definitions of crimes and criminal penalties and evaluate whether certain criminal conduct may be combined into one criminal statute, thus alleviating any potential problems of having two statutes prohibiting the same criminal conduct.

(C) Reviewing and making recommendations concerning proposed criminal law modifications and amendments.

(D) Reviewing and determining the severity of the Kansas sentencing policies in relation to other states and review possible adjustments which may relieve or eliminate prison capacity issues in Kansas.

(E) Reviewing the enactment of K.S.A. 2004 Supp. 21-4729, and amendments thereto, the nonprison sanction of certified drug abuse treatment programs for certain offenders, and review and recommend how best to enhance the sentence for an offender who is not subject to treatment.

(2) Identify ways to rehabilitate offenders and to work with offenders on community-based supervision by:

(A) For all offenders:

(i) Establishing an assessment and classification system whereby offenders are classified into those who can correct their criminal behavior and have a successful reentry upon release and those who are offenders who continue to be a threat to society and need to be incarcerated or incarcerated for longer periods of time.

(ii) Studying and reviewing programs which hold offenders responsible and accountable for such offender's actions and reduces recidivism.

(B) For reentry:

(i) Reviewing all correctional programs and study ways to more effectively utilize the monies being spent on such programs to reduce prison population and recidivism, particularly programs which target nonviolent offenders to earn early release by participating in rehabilitative programs while incarcerated then completing the transition by reintegration into the community and obtaining gainful employment and housing. Such rehabilitative programs may include programs which modify

criminogenic behavior, enhance education, and provide job training and substance abuse treatment.

(ii) Reviewing and recommending treatment programs for mental health, drug abuse and alcohol abuse, and to provide any necessary and appropriate collaboration and cooperation among governmental agencies and services to such end.

(C) Reviewing all current research concerning criminal behavior, focusing on rehabilitating criminals in prison and upon reentry into the community and recommend a course of action.

(D) Reviewing and recommending reentry initiatives, for continuity between institutional programs and activities, offenders' reentry plans, and the supervision and services offenders receive once released, and necessary collaboration among corrections, law enforcement, and community service agencies for appropriate offender monitoring to assist in meeting the needs of the offender and the offender's family and ensure that safe communities are maintained.

(E) Make recommendations concerning reentry initiatives for serious, violent offenders based on current research and collaborative opportunities identified.

(F) Consider and harness the resources and experience of faith-based, volunteer, advocacy and community organizations to help returning offenders contribute to society.

(3) Identify ways to restore the offender into society as a productive member:

(A) Reviewing transitional programs such as mentoring, available treatment, supervised and transitional housing, basic job training and placement, and correctional industry and work release programs which assist offenders to reintegrate into the community.

(B) Establishing community networks which would support and assist the offender upon release. Such support may include assisting the offender to learn about parenting and the role of the family, and to have a productive relationship with such offender's family, including being a positive and responsible parent and spouse, providing mentoring for children of prisoners, and plans for the whole family.

(C) Recommending release planning processes that ensure each offender has an individual goal-driven release plan that targets such offender's risks and needs, and which assures the safety of our Kansas communities.

(c) The project shall be governed by a committee made up of the following members:

- (1) One legislator shall be appointed by the president of the senate;
- (2) one legislator shall be appointed by the minority leader of the senate;
- (3) one legislator shall be appointed by the speaker of the house of representatives;
- (4) one legislator shall be appointed by the minority leader of the house of representatives;
- (5) one member of the judicial branch appointed by the chief justice of the supreme court;
- (6) one member of the law enforcement community appointed by the attorney general;
- (7) one defense attorney or public defender appointed by the governor;

(8) one county attorney or district attorney appointed by the Kansas county and district attorney association;

(9) a professor of law from the university of Kansas school of law and a professor from Washburn university school of law appointed by the deans of such schools;

(10) a drug and alcohol addiction treatment provider appointed by the governor;

(11) one district court judge appointed by the Kansas district judges association;

(12) one member representative of the faith-based community appointed by the governor;

(13) one member representative of the criminal justice field appointed by the secretary of corrections; and

(14) the attorney general, the secretary of corrections, the secretary of social and rehabilitation services and the commissioner of juvenile justice, or such persons' designees, shall serve as ex officio, nonvoting members of the committee.

(d) The members of the committee shall elect officers from among its members necessary to discharge its duties. The committee shall receive testimony from interested parties at public hearings to be conducted in the various geographic areas of the state.

(e) Each member of the committee shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the committee shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on committee activities. No per diem compensation shall be paid under this subsection to salaried state, county or city officers or employees, except that the legislative members shall receive compensation as provided in K.S.A. 75-3212, and amendments thereto.

(f) The committee shall have the authority to:

(1) Organize and appoint such task forces or subcommittees as may be deemed necessary to discharge such committee's duties;

(2) accept grants, gifts and other appropriation of funds;

(3) hire and employ staff persons; and

(4) contract for the services of organizations and agencies in any evaluation or report necessary for the discharge of the committee's duties.

(g) The committee shall work with the Kansas judicial council, the department of corrections, the department of social and rehabilitation services, the juvenile justice authority and the Kansas sentencing commission and review studies and findings of the Kansas sentencing commission concerning proportionality of sentencing.

(h) The committee shall prepare and submit its interim report to the legislature on or before February 1, 2005. A final report and recommendations shall be submitted to the legislature on or before January 9, 2006.

(i) The staff of the office of the revisor of statutes and legislative research department shall provide such assistance as may be requested by the committee and to the extent authorized by the legislative coordinating council.

(j) The provisions of this section shall expire on July 1, 2006.

History: L. 2004, ch. 92, § 1; Apr. 22.

SECTION II – COMPOSITION OF COMMITTEE

Committee Membership

1	Senator Derek Schmidt , Independence	legislator, appointed by the president of the senate
2	Senator David Haley , Kansas City	legislator, appointed by the minority leader of the senate
3	Representative Eric Carter , Overland Park	legislator, appointed by the speaker of the house
4	Representative Jim Ward , Wichita	legislator, appointed by the minority leader of the house
5	Honorable Christel Marquardt , Judge, Kansas Court of Appeals	member of the judicial branch, appointed by the chief justice
6	Chief of Police Ed Klumpp , City of Topeka	member of the law enforcement community, appointed by the attorney general
7	Ed Collister , Attorney, Lawrence	defense attorney or public defender, appointed by the governor
8	District Attorney Nola Foulston , Sedgwick County	county attorney or district attorney, appointed by the Kansas county and district attorney association
9	Professor Tom Stacy , Kansas University School of Law	professor of law from the university of Kansas school of law, appointed by the dean
10	Professor William Rich , Washburn University School of Law	professor from Washburn university school of law, appointed by the dean
11	Marilyn Cook , Exec. Dir., Comcare Community Mental Health Center, Wichita	drug and alcohol addiction treatment provider, appointed by the governor
12	Honorable Ernest Johnson , District Judge, Wyandotte Co.	district court judge, appointed by the Kansas district judges association
13	Chris Hauck , Hays C.E.O., Sunflower Electric Power Corporation (Ret.)	representative of the faith-based community, appointed by the governor
14	Representative Ward Loyd , Garden City	representative of the criminal justice field, appointed by the secretary of corrections

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| 15 | Kevin Graham , Assistant Attorney General, Topeka | the attorney general, or such persons' designee, <i>ex officio</i> , <i>nonvoting</i> |
| 16 | Secretary Roger Werholtz , Department of Corrections | the secretary of corrections, or such persons' designee, <i>ex officio</i> , <i>nonvoting</i> |
| 17 | John Badger , Chief Counsel, Department of SRS | the secretary of social and rehabilitation services, or such persons' designee, <i>ex officio</i> , <i>nonvoting</i> |
| 18 | Commissioner Denise Everhart , Juvenile Justice Authority | the commissioner of juvenile justice, or such persons' designee, <i>ex officio</i> , <i>nonvoting</i> |

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SECTION III – FOCUS OF EFFORTS TO DATE

The 3Rs Committee has undertaken its work mindful of the findings of the Kansas Legislature. Those findings reflect that:

- ❖ Since the Kansas criminal code was codified in 1993 and through 2003, 50 new felonies have been enacted; 10 felony offenses have increased severity levels; 14 misdemeanor offenses were increased to felony offenses; four crimes were moved to nongrid status; four nonperson crimes were moved to person crime status; the present sentence for nondrug severity level 1 with criminal history A is 219% greater than it was 10 years ago (194 months to 620 months) and for criminal history I, it is 60% greater (97 months to 155 months); the present sentence for nondrug severity level 2 with criminal history A is 219% greater than it was 10 years ago (146 months to 467 months) and for criminal history I, it is 60% greater (73 months to 117 months); and countless new misdemeanors have been enacted and codified throughout the Kansas statutory code, increasing the margin for error in prosecutors appropriately identifying and charging for certain criminal acts.
- ❖ In recent years there have been numerous appellate court decisions, both federal and state, which have impacted determinant sentencing, most especially with regard to departures from the sentencing guidelines, and the enforceability and sentencing severity of enacted criminal legislation.
- ❖ Numerous societal changes have occurred as a result of advances in technology, the advent of terrorism and the need for homeland security, which must be appropriately addressed.
- ❖ The Legislature further finds and declares that a comprehensive review of these new and enhanced offenses should be conducted to determine if the sentences for these offenses are appropriate and proportionate to other sentences imposed under the code.
- ❖ Crime rates have been falling since 1994, with violent and property crime rates nationally being at their lowest level in 30 years. Recidivism as reported in the Corrections Yearbook is rising, and Bureau of Justice Statistics Special Report on Recidivism data indicates that within three years of release 67.5% of released prisoners were re-arrested, 46.9% were reconvicted for new crimes, 35.4% were re-sentenced for new crimes, and 51.8% returned to prison.
- ❖ The inmate population in Kansas grew at a rate of 45.7% over the past 10 years, now exceeds 9,100 people, and is currently projected to increase to a population of 10,131 in 2013, an additional 11% increase.
- ❖ Many of these increased admissions are nonviolent offenders and technical parole violators who have committed no crime or not been reconvicted but have violated a condition

of their parole. In Kansas, 53.2% of re-admittees over a three-year period were in this category.

- ❖ There have been new and apparently effective reentry strategies for offenders developed that show much promise for improved public safety and successful reintegration of offenders into communities as productive citizens.
- ❖ The rate of mental illnesses in state prisons and local jails is three times the rate in the general population, constituting more than 21% of inmates, with approximately 75% of these individuals having a co-occurring substance abuse disorder.
- ❖ In most areas of Kansas, the mental health, substance abuse and criminal justice systems offer an uncoordinated system of care or no effective response for individuals with a serious mental illness or co-occurring substance abuse disorder.
- ❖ The use of newer psychotropic medications has resulted in improved response to treatment for individuals with a serious mental illness, and access to these new medications has resulted in restored health and enhanced public safety.
- ❖ Criminal justice, mental health and substance abuse systems that do not provide a coordinated response to individuals with serious mental illness often end up using expensive public safety and emergency services to respond to certain of those individuals.
- ❖ System integration between the mental health, substance abuse and criminal justice system at the county, regional and state levels can provide prompt, appropriate treatment and interventions to break the cycles of decompensation and incarceration to successfully reduce the number of individuals with serious mental illnesses entering into, residing in and reentering the criminal justice system.
- ❖ The system of criminal justice and incarceration in Kansas presently offers substantially diminished opportunities for inmate literacy or marketable skills, or other programs and services that could ameliorate factors which place inmates at higher risk of recidivism after release.
- ❖ The economic burden of recidivism is threefold, being the cost of unemployment in lost income taxes or contributions to the economy, the cost of the crime event itself compounded by police, prosecution and court expenses, and the cost of incarceration.
- ❖ 93% of prisoners in the prison systems of the states are men; 55% have minor children; the average age of these children is eight, and in all, approximately 2% of all children have a parent in prison; one in seven children in our nation, before reaching age 18, will have an incarcerated father; having a father in prison is a powerful predictor of antisocial behavior in general and of criminality in particular, making a child five to six times more likely to end up in prison.
- ❖ The state must learn to spend money more wisely, in order to bring crime down more effectively than to simply imprison, and thereby save moneys to spend on other priorities.

Meetings

Considering these findings, and the provisions of H Sub for SB 45, the committee has conducted a number of meetings to date, evaluated research materials, and heard testimony from agencies and boards on their activities and national experts in the field of criminal law and criminal justice.

All meetings to date have been held in Topeka, as the committee has secured background information from various resources. The 3Rs Committee has to date conducted meetings on:

August 16, 2004
September 14, 2004
September 15, 2004
October 14, 2004
October 15, 2004
November 8, 2004
November 9, 2004
December 7, 2004
December 8, 2004
February 4, 2005
March 4, 2005

Presentations

At its meetings, and in an effort to meet its commitments under HSub for SB 45, the 3Rs Committee has to date had full briefings from the following agencies, boards, interested groups and experts.

Randy Hearrell, Kansas Judicial Council, on the function and role of the council, including the availability of the council and its subcommittees to assist with the 3Rs Project.

Roger Werholtz, Secretary, Kansas Department of Corrections, with regard to the offender population, our system capacity, availability of program services. As reflected in the KDOC Corrections Briefing Report, from FY 1996 to FY 2004 facility-based program capacity went from 176 to 312 for sex offender treatment, 212 to 40 for substance abuse treatment, 0 to 188 for therapeutic communities-substance abuse, 316 to 145 for academic education, and 309 to 325 for vocational education. For community-based programs, the slots available went from 135 to 0 for substance abuse treatment, 20 to 159 (now reduced to 86) for Community Residential Beds (CRBs), 150 to 477 for sex offender treatment, and 0 to 32 for the therapeutic community. There are approximated 5,800 offenders released each year to Kansas communities.

Patricia Biggs, Executive Director, Kansas Sentencing Commission, provided an overview regarding current prison population projections and analysis of trends, treatment pursuant to SB 123, and KSC role and duties as the Statistical Analysis Center (SAC) for Kansas. At the March 2005 meeting Patti presented the KSC 2005 Report to the Kansas Legisla-

ture. The Committee noted that KDOC has a capacity of 9,458, including both prison beds available within the physical structure of the KDOC and contract placement. The Governor's Budget includes a 100 bed minimum custody expansion at Ellsworth Correctional Facility, which if accepted would increase the prison capacity to 9,558. The aggregate prison population is projected by KSC to reach 9,461 by the end of FY 2008, and 9.682 by the end of FY 2009. The projection is based upon the laws, policies, and practices in place and combined with assumptions regarding growth rates and historical observation.

Dr. Alexander M. Holsinger, University of Missouri Kansas City, regarding the principles of effective assessment and classification of offenders, including current reassessment for KDOC of its assessment tool, the LSI-R. The Committee recognized the essential role of effective and early risk assessment for all offenders.

Margie Phelps, Director of Release Planning, KDOC, on reentry efforts underway in KDOC and in Kansas, including in particular the Shawnee County SVORI initiative.

Staff briefing and overview of contents of *The Reentry Policy Council Report, Charting the Safe and Successful Return of Prisoners to the Community*, coordinated by The Council of State Governments, New York, NY; and *After Prison: Roadblocks to Reentry, A Report on State Legal Barriers Facing People with Criminal Records*, released by the Legal Action Center, 2004.

Current policies on incarceration and prisoner release are far from effective. Too many former prisoners return to lives of crime. To break the vicious cycle of crime, punishment, and recidivism, we need a more coordinated effort to provide the helping hand that so many ex-offenders need in order to become productive members of society. The **Report of the Re-Entry Policy Council** is a wake-up call . . . to deal more effectively with this festering problem.

– Senator Edward M. Kennedy

Terry Finley, Program Director, Shawnee County Reentry Program, on the background of the program and the challenge of child support debts and reentry.

Janene Falley, Topeka Police Reentry Officer, Shawnee County Reentry Program, on working with offenders in the community, and problems encountered by offenders as a result of detainers filed against them immediately prior to their scheduled release.

Professor Bill Rich, Washburn University School of Law, on the history of litigation of the Kansas prison system from the impact of over-crowding, including treatment of mentally ill prisoners, in *Arney vs. Hayden*, In the United States District Court for the District of Kansas, Case No. 77-2045-R.

Marilyn Scafe, Chair, Kansas Parole Board, reviewing the Annual Report of the Kansas Parole Board for fiscal year 2004, followed by a Memorandum of Suggestions for Committee Consideration dated December 10, 2004.

Daniel Souweine, Project Coordinator, Council of State Governments, and Dr. Erik Roskes, Director of Forensic Treatment, Springfield State Hospital, Maryland, regarding the

Mental Health Consensus Project, focusing on a need for offender access to federal program benefits, housing and community based mental health care. The Committee recognized the need for the state of Kansas to opt out of the federal prohibition against all drug offenders from qualifying for receipt of Temporary Assistance to Families benefits.

Denise Everhart, Commissioner, Juvenile Justice Authority, on JJA programs, statistical information, and program services, including academic program, treatment program, skill development, character education, and JCF/Community transition information.

Don Raymond, Director, InnerChange Freedom Initiative (IFI) on the history and operations of the IFI program at the Ellsworth Correctional Facility in cooperation with KDOC.

Sandy Barnett, Executive Director, Kansas Coalition Against Sexual & Domestic Violence, on the impact of batterers on the Kansas criminal justice system.

Gordon Lansford, Director, Kansas Criminal Justice Information System (KCJIS), on the history and operations of the Kansas system, being the only state information system authorized to access FBI/NCIC via the Internet. The Committee recognized the critical importance of access to and sharing of information regarding offenders in any viable reentry initiative.

Roger Werholtz, Secretary, KDOC, presenting on the history of Kansas adult offender supervision in the community, commencing with the authorization for field services in 1957.

Dave Riffin, Classifications Manager, KDOC, regarding the KDOC General Inmate Classification System, by which inmates are assessed relative to the risk they present to themselves, other inmates, staff and the community, and the reevaluation of such classification system currently underway.

George Keiser, Chief, Community Corrections/Prisons Division, National Institute of Corrections (NIC), presenting the NIC's Transition from Prison to Community Initiative (TPCI), which begins when an offender is admitted to prison. Included were recommendations regarding the principles of a transition accountability plan.

Roger Haden, Deputy Secretary for Programs and Staff Development, KDOC, reviewed the KDOC Community Residential Beds (CRBs) which provide a means for structured living for offenders. Included was an analysis of the predominant causes of failure of offenders in CRBs.

Professor Paul H. Robinson, Colin S. Diver Distinguished Professor of Law, University of Pennsylvania Law School, regarding recodification of criminal codes, and recommendations on processes to utilize in any such undertaking. The Committee gratefully acknowledges the assistance of the University of Kansas and the School of Law in providing the costs of expenses for Professor Robinson, including honorarium.

Roger Werholtz, Secretary, KDOC, presented the Department's recommended prison expansion plan, in compliance with HSub for SB 45.

Marilyn Cook, Executive Director, Comcare Community Mental Health Center, reviewed for the committee the current Kansas Community Mental Health System, the Kansas mental health reform of the early 1990's, the Project Steering Committee Report and findings, and the Mental Health Services Planning Council, Forensic Subcommittee Government Report, from August 2004. The Committee noted the finding that nearly 50% of offenders are homeless at the time of release, that there is a need to train and educate local law enforcement officers to identify mental illness, and an insufficient collaboration among primary agencies serving this population.

Michael Thompson, Project Coordinator, Criminal Justice Programs, Council of State Governments, New York, reviewed both the Criminal Justice / Mental Health Consensus Project and the Reentry Policy Council Report, and their implications for Kansas and the work of the 3Rs Project and this committee, and further reporting on a site visit by CSG to review components of Kansas criminal justice systems and consider recommendations on how the RPC Report relates to the work of our committee.

Dr. Tony Fabelo, Senior Associate, The JFA Institute, presenting an analysis of the CSG site visit of components of the Kansas criminal justice system. Dr. Fabelo noted that Kansas has a framework of tough and smart policies in place, that the framework is under pressure, but there are opportunities to strengthen the state's framework. Condition probation violations have significantly increased, as have parole condition revocations, program funding is down, community program capacity is down, and while we must maintain sufficient prison capacity to lock-up violent offenders, attention could be given to cut down probation and parole revocations, improve community capacity to receive and supervise offenders, and to improve performance measures for systems utilized.¹

Don Stemen, Senior Policy analyst, Vera Institute of Justice, New York, NY, presenting a review of the study conducted by the Vera Institute for KSC on the proportionality of sentences under the Kansas Sentencing Guidelines, and the proportionality of sentences under the drug grid in relation to surrounding states.

Dr. Dennis D. Embry, Ph.D., President, PAXIS Institute, Tucson, presented on juvenile justice recommendations for prevention, intervention, and treatment; a program of social marketing for the 3Rs work and recommendations; all intended to facilitate the adoption of practices, behaviors, and attitudes in our communities, homes, workplaces, civic groups, and faith groups needed to save more children, juveniles, adults, and families from the very negative paths so many experience.

¹“Policy makers need what we call ‘action research’ to help them create [a] roadmap. This practice uses empirical data to identify an offender’s risk inside and outside prison which is then used to decide how to manage the offender during the punishment and community supervision phase. Action research can also suggest program or sanction options that are the most cost-effective to manage the risk of offenders, without jeopardizing public safety.” *The Diminishing Returns of Increased Incarceration, A Blueprint to Improve Public Safety and Reduce Costs*, Dr. James Austin and Dr. Tony Fabelo, The JFA Institute, Washington, DC, July, 2004, page 14.

Project Funding

Adequate funding for the activities of the 3Rs Committee is an ongoing issue. Thanks to Governor Kathleen Sebelius and the Kansas Criminal Justice Coordinating Council, our Project was in July 2004 awarded funding of \$100,000 for its activities.

Of that sum, \$25,000 is provided by the five agencies making up the Governor's Health and Human Services Subcabinet – Department of Corrections, SRS, JJA, KDHE, and the Department of Aging. The balance was a grant by the Council of funds from The Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

The 3Rs Committee has been able to foster a relationship with The CSG East Criminal Justice Programs office in New York. This CSG office has served as the coordinator for two remarkable, ground breaking studies

- ✓ The Criminal Justice / Mental Health Consensus Project Report, developed in response to requests from state government officials for recommendations to improve the criminal justice system's response to people with mental illness; and
- ✓ The Re-Entry Policy Council Report, presenting recommendations that policymakers and practitioners can use to improve the likelihood that adults released from prison or jail will avoid crime and become productive, healthy members of families and communities.

As addressed in Section IV of this report, 3Rs was able to negotiate with CSG an agreement for technical assistance by which CSG agreed to conduct analyses of prison population and identify opportunities to manage growth, map concentrations of people in communities receiving disproportionately large numbers of people released from prison, present the findings at and help sponsor a statewide reentry policy conference, and coordinate collaboration between corrections and mental health organizations and develop and implement a re-entry plan for this special offender population. Conservatively, it is estimated that the value of the technical assistance to be provided by CSG and its contract consultants is \$100,000.

Needless to say, the Kansas Criminal Justice 3Rs Project has continuing funding needs.

Work Plan

The 3Rs Committee anticipates that following the completion of the 2005 Session of the Kansas Legislature, it will return in earnest to the tasks and directives of HSub for SB 45. Monthly meetings will be scheduled through the remainder of 2005 as the Committee works to complete its charge and formulate public policy recommendations for inclusion in a final report to the Legislature in January, 2006.

It is anticipated the Behavioral Health and Reentry Subcommittees will be able to develop recommendations for initial approval of the full 3Rs Committee by early fall 2005. The Recodification Subcommittee, by the very nature of its task, will be challenged to complete its charge within the current time frame.

The 3Rs Committee anticipates that during the Fall of 2005 it will conduct public hearings in each part of Kansas. It is the intent of the Committee to get people together so that collectively we understand the issues in our state. And, in that manner, to be able to address certain core challenges:

- Redefine missions
- Maximize the value of existing funding
- Integrate systems
- Measure performance
- Inform and reassure the public;

all as we work to develop reentry policies and programs that

- Make smart release and community supervision decisions
- Ensure support for victims
- Offer safe places to live
- Break the bonds of addiction
- Treat physical and mental illness
- Foster meaningful relationships
- Provide training, education, jobs, and mentoring.

Each member of the 3Rs Committee has embarked upon their Project duties understanding that any deliberations must begin with a consideration of the crime victim. When it comes to costs, the order of our priority is first the victims of crime caused by the crime itself, then the indirect costs to society from loss of productivity, taxes, and family support, and finally the increased government costs of the police, courts, prosecution and incarceration expenses. In the end, the Kansas Criminal Justice 3Rs Project will accomplish nothing if it has not worked to reduce the number of Kansans falling victim to criminal activity.

SECTION IV – PROJECTS UNDERTAKEN & UNDERWAY

Project Coordinator

We are pleased to announce the selection of a Project Coordinator to direct the operations, activities, and work of the 3Rs Project – Cheryl Rios Kingfisher.

Cheryl is a 1993 graduate of Washburn University School of Law, licensed to practice law in the states of Kansas and Missouri, and a member of the Kansas and Missouri Bar Associations. Her professional experience includes working as an Assistant District Attorney and prosecutor in the office of the Shawnee County District Attorney and as staff attorney for the Cherokee Nation of Oklahoma in the Division of Law and Justice. In addition, Cheryl is a Registered Nurse. She worked as a critical care nurse for Stormont Vail Regional Medical Center in Topeka and as a Flight Nurse. Cheryl is licensed by the Kansas State Board of Nursing and is a member of the Kansas State Nurses Association.

Website

A website dedicated to the recodification and reentry work of the 3Rs Committee is intended to be established and operational by early spring of 2005. The website is expected to be hosted by Access Kansas.

It is further intended that the work and meeting schedule for the 3Rs Committee and each of its Subcommittees will be available on the website. Agenda and minutes of meetings, information of significance presented to the Committee, a report on the Kansas Policy Conference on Offender Reentry, and links to resources valuable to the Criminal Justice 3Rs Project in general will also be available

Recodification

The Recodification Subcommittee has commenced the first major recodification of the Kansas criminal code since the significant work of Paul E. Wilson and the adoption of the Kansas Criminal Code in 1969. The need is reflected in the findings of the Legislature with the enactment of HSub for SB 45, reflected earlier in this report. Moreover, the methodology to be employed in the recodification work, and the working statement of goals and process, follow in Section V.

The 3Rs Committee has the pleasure of announcing the Reporter for this Project:

Honorable David S. Knudson
454 Rossum Dr.
Loveland, Co. 80537
(970) 593-0537

Conditional Violators Recommendations & Mapping Project

Through the previously addressed agreement with CSG for technical assistance, the 3Rs Committee has undertaken the four following projects.

A. Conduct analyses of prison population and identify opportunities to manage growth.

At the preliminary presentation of CSG to the committee in December, the following findings were reported:

- 1) that Kansas, in contrast to most states, has a strong framework that enables policymakers to ensure that the corrections system has the capacity to lock up violent offenders;
- 2) that this framework is currently under pressure; and
- 3) that options to ease this pressure should be explored.

CSG agreed to contract with its consultants to review Kansas information systems to generate some options for our consideration. In particular, CSG focused on one of the two categories of admissions (violations of conditions of release) that appear to be driving our prison population growth (the other being the "stacking effect" created by the numbers of violent offenders accumulating in our prisons serving longer sentences).

B. Map concentrations of people in communities receiving disproportionately large numbers of people released from prison

CSG contracted with consultants to generate maps to illustrate which neighborhoods (and even blocks) are receiving the highest concentration of people released from prison. Based on preliminary conversations with members of the committee, CSG agreed to prepare these neighborhood-level maps for Wichita. Given resource constraints, CSG was unable to generate maps for more than one urban center through this agreement.

C. Present findings at statewide conference

Following a preliminary presentation of our draft "report" to the 3Rs Committee, CSG agreed to make a formal presentation to state leaders.

CSG's Public Safety Programs office has been working closely with U.S. Senator Sam Brownback, who has provided considerable national leadership around the issue of prisoner re-entry. Senator Brownback has been supportive of the Re-Entry Policy Council, which the CSG Public Safety Program office coordinates.

Senator Brownback expressed interest in convening an event in Kansas, to which CSG could help draw national attention. A mid-April date for this event has been targeted, and CSG will coordinate plans with Secretary Roger Werholtz, who in turn has expressed

We've got a broken corrections system. Recidivism rates are too high and create too much of a financial burden on states without protecting public safety. The efforts of the Re-Entry Policy Council will be of great value to those of us in Congress seeking to highlight and facilitate the development of innovative programs and policies in state and local government to reduce recidivism drastically, which will transform not only lives but our nation as a whole.

— Senator Sam Brownback

optimism that this forum could involve the governor's office and legislative leaders. At this forum, Dr. Fabelo will present his analyses as set forth in proposal A, and Eric Cadora will present his maps of Wichita as proposed in proposal B.

Furthermore, CSG will contact experts involved with the development of the Re-Entry Policy Council Report to discuss the kinds of programs that are most likely to have a significant impact on recidivism and community safety in these neighborhoods. The information could be available for presentation at the statewide conference, or later to the 3Rs committee.

- D. Assess extent of collaboration between corrections and mental health organizations and develop and implement a re-entry plan for this special population

During CSG's initial presentation to the committee, it was explained that Kansas had been selected as one of the sites to receive free technical assistance from the Council of State Governments, through its Criminal Justice / Mental Health Consensus Project, which in turn has entered into a cooperative agreement with the National Institute of Corrections. This technical assistance is designed to help the Kansas state corrections and mental health organizations develop and implement a plan to improve the transition that people with mental illness make from prison to the community. (It was noted that in December CSG selected Kansas to be one of just four sites to receive intensive technical assistance, in part because of the commitment to this work that key Kansas policymakers had demonstrated to this project. CSG believes this project would benefit considerably from close coordination with the 3Rs committee.)

Recognizing and Capitalizing on Reentry Initiatives

There is much that is serendipitous about the the Kansas 3Rs initiative. First is the foresight of Speaker Doug Mays in the establishment of the House Corrections & Juvenile Justice Committee as a standing legislative committee in 2004. That permitted the vehicle for legislators to focus on existing criminal justice issues. This committee had the opportunity in 2004 to begin exploring the full extent of the problem of mental illness in the population contact by corrections and law enforcement and the benefits of effective, measurable treatments to address addiction as established in 2004 SB 123. Then, following the approval by the Kansas Legislature of H Sub for SB 45 this year, came the release of The Reentry Policy Council Report.

Also consider events on the federal level. The famous statement of President Bush in his 2004 State of the Union Address, as elsewhere noted. The passage of the Mentally Ill Offender Treatment and Crime Reduction Act in October, 2004 (S.1194/HR 2387), which is expected to provide \$50 to \$100 million in grant funding for collaborative efforts between criminal justice and mental health agencies at the state and local level to improve the response to people with mental illness in the criminal justice system. The anticipated introduction of the Second Chance Act, principally through the efforts of Senator Sam Brownback, as well as his significant position on the Senate Appropriations Committee. It is planned for the Second Chance Act to provide \$212 million over two years. \$165 million for Reentry Demonstration Program, \$45 million for community-based mentoring, and \$2 million for state grants for research

All of the stars seem to be aligned so that if the Committee is diligent in its work and sound and

acceptable public policy recommendations are forthcoming, the state of Kansas may well be able to take advantage of its planning efforts and secure funding for a number of efforts as an effective system of preparing both the offenders for release and the communities for the return of the offenders.

Kansas has been recognized nationally as being at the forefront of the criminal justice reform efforts. The 3Rs Committee is committed to demonstrate Kansas has earned that recognition.

Kansas Policy Conference on Offender Reentry

The Kansas Criminal Justice 3Rs Project Committee will co-host the first Kansas Policy Conference on Offender Reentry, along with Wichita State University and the Council of State Government (CSG). The conference will occur on April 18, 2005, in Wichita. Notable Kansas leaders Senator Sam Brownback and Governor Kathleen Sebelius will address the need for reform in Kansas and highlight the importance of bipartisan support for such reform. Exhibitors from across the state will highlight noteworthy programs and initiatives in the criminal justice system underway in Kansas. The Council of State Governments will reveal the results of mapping services conducted for the City of Wichita. Initial indications are that National Public Radio (NPR) and Court TV will tape a related event at the Ellsworth Correctional Facility for their series "Justice Talks".

SECTION V – SUBCOMMITTEES

RECODIFICATION SUBCOMMITTEE

The Recodification Subcommittee has developed, and the 3Rs Committee has formally taken action to approve, the Working Statement of Goals & Process which will govern the work of the subcommittee.

WORKING STATEMENT OF GOALS & PROCESS **CRIMINAL JUSTICE 3Rs RECODIFICATION SUBCOMMITTEE**

The Kansas Recodification, Rehabilitation, and Restoration Project Committee (the “Criminal Justice 3Rs Committee”) has charged us [the Recodification Subcommittee] with addressing the recodification aspect of that Committee’s work. We outline below our goals going into this project and a general process for producing recodification recommendations. This description of our objectives and process is intended to guide both us and those assisting the Subcommittee. Of course, we will be flexible as our work progresses and reserve the right to supplement or depart from the content of this initial statement.

I. GOALS.

A. Background.

In setting out the general goals of recodification, we do not write on a blank slate. We have a statement of such goals from the Commission responsible for last comprehensive recodification of the Kansas criminal code, which occurred in the 1960s. We also have consulted the 2003 final report of the Illinois Criminal Code Rewrite and Reform Commission, a group for which Professor Paul Robinson served as Reporter. Finally, on December 8, 2004, the Subcommittee heard Professor Robinson speak on the need for and benefits of comprehensive criminal code recodification.

In the 1960s, the Kansas Judicial Council’s Advisory Commission on Criminal Law Revision, led by Professor Paul Wilson as Reporter, proposed a comprehensive recodification of the Kansas criminal code. The Advisory Commission’s proposals were enacted into law largely, if not entirely, intact and provide much of the basic structure for the criminal code now in force. The Foreword to its Proposal specifies the following four goals:

First, to remove duplications, inconsistencies, invalid provisions and obsolete materials;

Second, to state in clear, simple and understandable terms the elements of the prohibited acts.

Third, to conform the law to the accepted standards and concepts of modern penal legislation.

Fourth, to confine the provisions of the criminal code to those matters of substantive law

which properly belong there.

The Foreword also addresses the Commission's view of the limits of its task. For instance, the Commission did not make any recommendation concerning retention of the death penalty because "capital punishment is a matter of policy which transcends the ordinary considerations relevant to the substantive criminal law." In addition, although the Commission found "at least fifteen hundred separate penalty provisions" located outside of the criminal code, it declined to incorporate the bulk of these into the code. Indeed, it did not even evaluate all of these provisions fully because "[t]o do this would have extended [the Commission's] work unduly."

In March 2000, then Illinois Governor Ryan issued an executive order establishing the Illinois Criminal Code Rewrite and Reform Commission to propose a rewrite of the Illinois criminal code. In January 2003, that Commission issued its Final Report. In his Preface, Reporter Paul Robinson identifies five "drafting principles":

First, . . . use clear, accessible language and organization.

Second, . . . provide a comprehensive statement of rules.

Third, . . . consolidate offenses.

Fourth, . . . grade offenses rationally and proportionally.

Fifth, . . . retain all (but only) reasonable policy decisions embodied in current law.

Despite being separated by time and geography, the Kansas and Illinois commissions embraced substantially the same objectives. Most of these goals and principles are designed to make the criminal code simpler and more coherent.

B. Senate Bill 45: Our Charge.

Senate Bill 45, which established the Criminal Justice 3Rs Committee, gives us direction regarding recodification. In pertinent part, it provides in section 1(b) that:

The project shall:

(1) Re-codify the Kansas criminal code by:

(A) Analyzing and reviewing all criminal statutes and criminal procedure, making recommendations for legislation that would ensure that the sentences are appropriate and proportionate to other sentences proposed for criminal offenses, with particular emphasis on the sentencing guidelines for drug crimes.

(B) Studying and making recommendations concerning the statutory definitions of crimes and criminal penalties and evaluate whether certain criminal conduct may be combined into one statute, thus alleviating any potential problems of having two statutes prohibiting the same conduct.

(C) Reviewing and making recommendations concerning proposed criminal law modifications and amendments.

(D) Reviewing and determining the severity of the Kansas sentencing policies in relation to other states and review possible adjustments which may relieve or eliminate prison capacity issues in Kansas.

(E) Reviewing the enactment of K.S.A. 2003 Supp. 21-4729, and amendments thereto, the nonprison sanction of certified drug abuse treatment programs for certain offenders, and review and recommend how best to enhance the sentence for an offender who is not subject to treatment.

C. Statement of Goals.

Based on our statutory charge and the reports of other recodification commissions, we embrace the following goals:

1. *Clarity and Simplicity.* First, the code should be written in language that is as clear, understandable, consistent, and simple as possible. A criminal code should be written so that it can be understood by ordinary persons as well as by the prosecutors, defense attorneys, and judges. A number of corollaries follow from this basic goal.

- The statement of offenses should eliminate excess verbiage.
- The use of legalistic terms of art should be minimized in favor of terms of common usage and meaning.
- Terms and concepts that recur throughout the Code, such as those that describe the level of culpability, should be standardized. Multiple terms having the same meaning should be discarded in favor of a single term. The meaning of single terms should remain consistent throughout the Code.

2. *Comprehensiveness and Coherence.* The Code should be comprehensive and coherent. This goal has a number of subsidiary implications.

- Unnecessary repetition and duplication should be eliminated.
- The elements of offenses should utilize rather than restate or work at cross-purposes with the principles and concepts set forth in the general part of the Code. For instance, in light of the general provisions criminalizing attempt and conspiracy, it is generally duplicative for an offense to state that an attempt or conspiracy to commit that offense is also criminal.
- Separate offenses targeting the same conduct should be consolidated, where appropriate. Senate Bill 45 specifically directs us to “evaluate whether certain criminal conduct may be combined into one statute”
- Felony offenses located elsewhere in the current Kansas statutes should be incorporated into the criminal code, where sensible.
- Relationships among offenses should be clear rather than the subject of judicial interpretation.

3. *Proportionate Sentences.* Although proportionality may be viewed as part of the goal of coherence, we single it out because it plays such a prominent role in our statutory

charge. Punishment ranges for offenses should be proportionate to the harm inflicted or threatened and to the offender's culpability. Other things equal, offenses causing or threatening more serious harm should be punished more severely and more culpable offenders should be punished more severely. Under Senate Bill 45, we have a specific obligation to evaluate "the severity of the Kansas sentencing policies in relation to other states and review possible adjustments which may relieve or eliminate prison capacity issues in Kansas." In considering proportionality, the statute directs us to give "particular emphasis on the sentencing guidelines for drug crimes."

4. *Sensitivity to costs.* Proposed changes in the Code should be based upon a judgment that the benefits of change outweigh the costs. We recognize that our current Code is the product of two past recodifications, one comprehensive and the other partial; countless judicial decisions; and legislative changes. All of these contributions merit deference and respect. Their rationale should be identified, where possible, and given respectful consideration and due weight. In addition, prosecutors, defense attorneys, and judges have worked with the Code and gained familiarity with it as well as the caselaw and legislative changes that have built up around it. Any change requires that all of these individuals spend valuable time learning new provisions and understanding how they alter existing law and interact with one another. We are also mindful that change inevitably carries unintended consequences and unforeseen ambiguity that causes litigation. While we are persuaded that a comprehensive reexamination of the entire Code is in order, we also believe that particular changes should be evaluated with an eye on possible costs.

5. *Deference to the Legislature's supreme policymaking role.* Recodification should be undertaken with an understanding of and sensitivity to the Legislature's policymaking role. Other committees charged with recodification have sought to minimize making major policy decisions. For instance, the recodification effort led by Professor Paul Wilson deliberately did not make any recommendation on the death penalty. In its statement of goals, the Illinois Rewrite Commission vowed to retain all reasonable policy decisions embodied in current law. Of course, any recodification inevitably will involve some policy choices. One of the Wilson Committee's four stated goals was to "conform the law to the accepted standards and concepts of modern penal legislation." Such modernization involves incorporating modern policy judgments. Decisions about offense consolidation and proportionate punishments likewise necessitate policy choices. The Illinois Commission assumed authority to evaluate the reasonableness of policies underlying existing law. The limits of our role in proposing policy changes are not always easily drawn. However, the factors relevant to acceptance of existing policy judgments include the degree to which the policy is fundamental, the recency of its adoption or reaffirmation, its coherency with the rest of the Code, and the availability of significant information not previously considered.

II. PROCESS.

We envision that the process leading to our recodification proposals will involve the following four steps:

1. *Collection of relevant statutory and caselaw materials.* Our first step will be collect

the text of all felony and, if possible, misdemeanor offenses in the Kansas Code, together with those cases that alter or significantly shape the meaning of the statutory text. These will be organized into tentative chapters by provision.

2. *Production and Discussion of Drafting Plans.* For each chapter of provisions, we aim to produce a list of possible changes for circulation to the Subcommittee for discussion. Rather than leave initial decisions regarding changes to the drafter(s), we prefer to discuss these beforehand. Our hope is that tentative drafting plans will emerge from these discussions.

3. *Drafting.* The next step will be the drafting of provisions and accompanying commentary. We think it very important that the commentary to those provisions indicate clearly any changes and explain their rationale. We contemplate that the initial drafting will be done by a single individual or by a small group, not by the entire Committee.

4. *Circulation of Drafts.* Draft chapters will then be circulated for comments to Subcommittee Members and other interested persons such as members of the Kansas Judicial Council's Advisory Committee on Criminal Justice. The drafter will respond to suggested changes. Disagreements that cannot be resolved will be so indicated in the commentary, with the principal arguments for each position summarized.

BEHAVIORAL HEALTH SUBCOMMITTEE

The Behavioral Health Subcommittee has drafted its proposed work plan, which we set forth in this report. It is to be noted, however, that this plan is in draft form only. The Subcommittee has not taken final action on its recommendation to the full committee, and no approval of any such plan has yet been given. Nonetheless, and so as to provide information on the anticipated focus of the work of the subcommittee, the draft statement is presented. Those interested in the final version of any work plan approved may contact the Project Coordinator to secure a copy.

Goal

The goal of the Behavioral Health Subcommittee is to develop appropriate treatment alternatives for mentally ill or impaired individuals within the Kansas system of criminal justice. Effective treatment alternatives should reduce costs of incarceration and also improve public safety.

Background

As noted in Senate Bill No. 45, "criminal justice, mental health and substance abuse systems that do not provide a coordinated response to individuals with serious mental illness often end up using expensive public safety and emergency services," and "system integration between the mental health, substance abuse and criminal justice system at the county, regional and state levels can provide prompt, appropriate treatment and interventions to break the cycles of decompensation and incarceration to successfully reduce the number of individuals with serious mental illnesses entering into, residing in and reentering the criminal justice system." The Kan-

sas Legislature also found that the rate of mental illness in prisons and jails is triple the rate found in the general population.

The percentage of prison inmates with mental illness has been growing at an alarming rate. In the period between 1988 and 1990, experts estimated that approximately 5% of the total inmate population demonstrated "significant functional impairment." Other estimates from that time period placed the number of Kansas inmates with serious mental illness at between 300 and 500. Since that time, the number of inmates with mental illness has increased at several times the rate of increase in the general inmate population. In 2004, estimates placed the percentage of inmates with serious and persistent mental illness at more than 20% of the total population, or almost 2,000 individuals. Approximately 40% of Kansas female inmates have been diagnosed with a "serious Axis I" mental illness. Furthermore, 75% of inmates with diagnosed mental illness also have a co-occurring substance abuse disorder.

Several factors have contributed to this growth in the inmate population. Part of the change presumably reflects improvements in screening and diagnosis. Deinstitutionalization, coupled with a failure to provide adequate community mental health treatment alternatives, has undoubtedly led to a portion of the increase; the increase in the number of mentally ill inmates approximates the reduction in numbers of institutionalized mentally ill patients. Finally, increased use of imprisonment also falls more heavily upon the mentally ill as inmates with repetitive criminal behavior and persistent violation of probation and parole conditions make up an increased percentage of the total population.

Effective treatment of mental illness should contribute to reduced reliance upon imprisonment. Since mentally ill inmates are among the most expensive of those housed in Kansas prisons, often requiring high levels of security, single cell placement, and high levels of institutional health care, reductions in the number and percentage of mentally ill inmates should result in savings and cost avoidance, and should also reduce the need for expansion of the prison system. In the long term, those savings should offset the cost of providing appropriate treatment.

Proposals

The RRR Criminal Justice Committee has received testimony from leaders in the field of criminal justice and from national experts. Committee members have also received and reviewed reports and proposals from other committees and organizations. Any plan developed by the Committee will conform to expert guidance regarding the best practices in the field. Specific proposals should also be based upon scientific evidence of success. Although the Committee has not yet developed specific proposals to meet identified needs, it is possible to identify potential components of such a plan.

Meeting the needs of the mentally ill population involved in the criminal justice system will likely begin with recognition of treatment needs of juveniles and continuation of that treatment into young adulthood. Evidence received by the Committee demonstrates that the current system blocks the transfer of significant treatment information for individuals who have left the system of juvenile justice and have become adult offenders. Addressing that lack of coordination may become a component of recommendations developed by the Committee.

Committee proposals may also include diversion when mentally ill adults first encounter the criminal justice system, requiring training and coordination among police, jail administrators, prosecuting attorneys, judges and community mental health providers. They could also include sentencing modifications that offer treatment as an alternative to imprisonment for mentally ill inmates who have been ineffectively cycled through the criminal justice system. Experts who have appeared before the committee have also discussed appropriate screening and treatment alternatives for those who are imprisoned, followed by successful transition planning and treatment upon release. Probation and parole officers could also be integrated into this system and trained to distinguish between malingering and manifestations of mental illness.

Additional steps in development of plans will include consultation with experts who are able to invest the time and resources needed to become familiar with the particular needs and constraints of the Kansas criminal justice system. It will also include expanding the range of persons who have input into this study so that the interests and concerns of all elements of the community have been considered. Based upon the information and advice received from experts and community members, detailed proposals will be prepared for presentation to the Legislature in 2006.

REENTRY SUBCOMMITTEE

The Reentry Subcommittee has only recently been authorized by the 3Rs Committee, and as yet its complement of members is not established, nor has its plan of work been formalized.