



# KANSAS

## KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman  
Attorney General Paul Morrison, Vice Chairman  
Helen Pedigo, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

### Minutes of the Kansas Sentencing Commission Meeting

December 21, 2006

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on December 21, 2006, at 1:35 p.m. in the Senate Room of the Jayhawk Tower Building, Topeka, Kansas.

#### Attendance:

##### Members:

Honorable Ernest L. Johnson, Chairman  
Honorable Larry Solomon  
Honorable Christel Marquardt  
Senator John Vratil  
Representative Janice Pauls  
Representative Kevin Yoder  
Rick Kittel, Board of Indigents' Defense Services  
Annie Grevas, Director of Community Corrections, 28<sup>th</sup> Judicial District  
Patricia Biggs, Kansas Parole Board  
Chuck Simmons, designee, Department of Corrections  
Chris Mechler, Office of Judicial Administration  
Kevin Graham, designee, Office of Attorney General  
Captain Dale Finger, Public Member  
Reverend Junius Dotson, Public Member

##### Staff:

Helen Pedigo, Executive Director  
Natalie Gibson, Staff Attorney  
Kunlun Chang, Research Director  
Fengfang Lu, Senior Research Analyst  
Lora Moison, Research Analyst  
Jessica Brunton, Research Analyst  
Brenda Harmon, Administrative Assistant  
Janice Brasher, Grant Administrator  
Jennifer Dalton, Accountant  
Marty Schmiedeler, Accountant  
Amanda Nations, Program Consultant

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### **Approval of the Minutes**

The Chairman referred to the minutes of the November 9<sup>th</sup>, 2006, Kansas Sentencing Commission meeting. A motion was made to approve the minutes by the Honorable Christel Marquardt and seconded by Ms. Chris Mechler. The motion carried.

### **Proposed 2007 Kansas Sentencing Commission meeting dates**

Chairman Johnson discussed the proposed schedule of monthly Commission meeting dates for 2007. A copy of the schedule was provided. The schedule was approved for now, with the understanding if dates need to be changed at any time in the future, it will be discussed at future Commission meetings.

### **Approval of LSI-R as official state-wide assessment tool**

Chairman Johnson reviewed past discussions on the LSI-R©, which is the adopted instrument made applicable under SB 123. A Legislative statute was passed in 2006 designating the Kansas Sentencing Commission specify the use of a statewide, mandatory, standardized risk assessment tool or instrument for use to determine which offenders are expected to be "high risk or needs, or both." A copy of the statute was provided. Ms. Grevas discussed the use of the instrument as a tool that is used to assess risk-needs of offenders, which scores out levels of criminogenic needs. There are about 8-10 domains, with detailed questions within each domain. Based on the domain scoring, some self reporting and their criminal history, a supervision plan and programming are built. Offenders are then individualized and treated based on the overall report.

A motion to approve the LSI-R© for use as the statutory state-wide risk-needs assessment tool was made by the Honorable Larry Solomon, and seconded by Senator John Vratil. The motion carried.

### **Payment length for 2003 – Senate Bill 123 treatment services**

Ms. Pedigo discussed feedback from the most recent SB 123 Update Conference in Topeka. An issue identified was that the available length of treatment (up to 18 months post sentencing) may be significantly reduced by delay or interference with access to treatment due to:

- A sanction imposed by the Judge to be served prior to SB 123 treatment;
- The offender is incarcerated as a result of a revocation for a previous conviction; or
- The offender was already incarcerated at the time of SB 123 sentencing.

Following a discussion of several possible options, a motion was made by Senator John Vratil and seconded by the Reverend Junius Dotson to amend Commission policy to reflect that offenders will be entitled to a maximum of 18 months of SB 123 treatment "commencing on their first day of treatment." The motion carried.

### **Journal Entries: DNA fee; Establish a Journal Entry subcommittee**

#### **DNA Fee**

Chair Johnson discussed 2006 – House Bill 2554 which Legislature enacted to require a DNA data base. January 1<sup>st</sup>, 2007, begins the first phase of the enactment, which includes the beginning of a DNA data base and a DNA collection fee. The statute states: "On and after January 1<sup>st</sup>, 2007, through June 30<sup>th</sup>, 2008, any adult arrested or charged or juvenile placed in custody for or charged with the commission or attempted commission of any person felony or drug level 1 or 2 felony shall be required to submit such specimen or sample at the time such person is fingerprinted pursuant to the booking procedure." For that period of time, those offenders included will be swabbed for DNA.

Because there is a \$100 fee attached to the DNA collection, the Commission has proposed the Sentencing Journal Entry of Judgment form be modified to add under "Section V: Costs" a blank for the DNA collection fee. The prosecutors, defense counsel and judges need to be aware of this statute because it does not apply to every case. The statute builds in some safe guards for due process. In the event the conviction never occurs, that's to be noted to the KBI where the data base is maintained so they can strike it from their file.

A motion was made by the Honorable Christel Marquardt and seconded by Senator John Vratil to include a notation on the Sentencing Journal Entry of Judgment form under "Section V: Costs" to indicate if the DNA collection/data base fee of \$100 is needed. An amendment to the motion was made by the Honorable Christel Marquardt and seconded by the Honorable Larry Solomon to also include a notation on the Presentence Investigation Form to mark whether the DNA collection/data base fee of \$100 is needed. The motion carried.

#### Establish a Journal Entry Subcommittee

Chair Johnson discussed the option of creating a new streamlined Journal Entry of Judgment form to be available for use with simple cases. He's discussed this with several local judges, prosecutors and defense council and they all feel this option would streamline simple cases. Ms. Pedigo provided a background on how and why this process began. This simple Journal Entry would be used in conjunction with the existing Journal Entry of Judgment. Ms. Pedigo requested a Subcommittee be formed to take the next five months or so to re-work the current Journal Entry and develop a second Journal Entry form that would still provide the needed data, but be simplified for those cases that would qualify. The existing Journal Entry would continue to be used as needed.

A motion was made by the Honorable Christel Marquardt and seconded by Ms. Chris Mechler to form a subcommittee to work on reformatting the existing Journal Entry and creating a second, simple Journal Entry for use with basic cases. The motion carried.

Commission volunteers for the journal entry subcommittee are Judge Ernest Johnson, Representative Janice Pauls, Judge Larry Solomon and Professor Rick Kittel. Additional subcommittee members will be solicited from outside the Commission.

#### Legislative Proposals

Staff Attorney Natalie Gibson presented a summary of potential legislative proposals. A handout was provided. Commission members discussed whether any of these issues need legislative attention at this time.

A motion was made by the Honorable Larry Solomon and seconded by Mr. Kevin Graham to propose language adding the Statistical Analysis Center to duties of the Sentencing Commission, and striking that language from the duties of the Criminal Justice Coordinating Council. The motion carried.

#### Executive Director Report

Ms. Pedigo provided and discussed an executive director report, which outlined last month's main activities for Commission staff. She plans to provide this report at each Commission meeting. Items discussed included:

- Oklahoma Sentencing Commission visit
- TOADS data base training for eight staff
- Budget recommendations
- New look for web site
- Senate Bill 123 Update Conference
- Vera Institute 18 and 36 month studies

- Conferences and meetings attended
- Desk Reference Manual users' survey
- Jessica's Law
- Temporary staffing
- Annual Report, Report to the Legislature and JJA Projections Report
- Impacts received for 2007 Legislative Session

**Next Meeting**

The next Commission meeting is scheduled for Friday, January 26<sup>th</sup>, 2007, at 1:30 p.m. in the Senate Room of the Jayhawk Tower.

A motion to adjourn the meeting was made by Mr. Kevin Graham, and seconded by the Honorable Christel Marquardt. The motion carried. The meeting was adjourned at 3:15 pm.