



KANSAS

KANSAS SENTENCING COMMISSION

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

KATHLEEN SEBELIUS, GOVERNOR

Minutes of the Kansas Sentencing Commission Meeting

August 23, 2007

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on August 23rd, 2007, at 1:40 p.m., once a quorum had been met. The meeting was held in the Senate Room of the Jayhawk Tower Building, Topeka, Kansas.

Participants:

Members:

Honorable Ernest L. Johnson, Chairman
Honorable Larry Solomon
Representative Janice Pauls
Roger Werholtz, Secretary of Corrections
Chris Mechler, Office of Judicial Administration
Patricia Biggs, Kansas Parole Board
Annie Grevas, Director of Community Corrections, 28th Judicial District
Thomas Drees, County Attorney
Captain Dale Finger, Public Member
Reverend Junius Dotson, Public Member

Staff:

Helen Pedigo, Executive Director
Natalie Gibson, Staff Attorney
Kunlun Chang, Director of Research
Lora Moison, Research Analyst
Jessica Brunton, Research Analyst
Brenda Harmon, Public Service Administrator
Janice Brasher, Fiscal Director
Marty Schmiedeler, Accountant
Jennifer Dalton, Accountant
Amanda Nations, Program Consultant
Lacey Gayer, Office Assistant

Introduction of New Staff

Helen Pedigo introduced Lacey Gayer, the new KSC office assistant, to Commission members. She joined the staff August 13th, and is training to process the daily Journal Entry mail and help with data entry of same, among other job duties. Ms. Gayer has B.S. degrees in psychology and sociology from Emporia State University.

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Approval of the Minutes

The Chairman referred to the minutes of the July 26th, 2007, Kansas Sentencing Commission meeting. Requests to amend and add details under the "Recodification Commission" section were made. The first amendment requested was to replace the word "requirements" with "mandates." The second amendment requested was to replace the word "intends" with "does not intend." Ms. Pedigo will email Judge Solomon for his approval of the additional information requested. A motion was made by Representative Janice Pauls and seconded by Ms. Chris Mechler to approve the minutes with the above amendments and modifications to be approved by Judge Solomon. The motion carried.

Adult Population Projections Presentation

Ms. Pedigo presented a PowerPoint presentation of the Fiscal Year 2008 KSC Adult Inmate ten year Prison Population Projections. A handout of the presentation was provided. The model begins July 1st, 2007, and is based on FY 2007 data. It is designed to project prison populations from FY 2008 to FY 2017. The growth rate used for this year is .75% as compared to 1.7% growth rate last year. An average length of stay of 130 days was used for postrelease supervision violators, compared to 120 days used for this group in the FY 2007 model. The rate of return of offenders per month was adjusted to 110, as compared to 135 per month during FY 2007. Senate Bill 14 was built in to the model. This bill does three things:

- Creates a grant program to reduce community corrections probation revocation rates by 20% (to 28%) from the FY 2006 revocation rate of 35%
- Increases good time from 15% to 20% for certain severity levels of offenders
- Provides a good time credit of up to 60 days for completion of certain types of programs.

Other highlights from the presentation include the following statistics:

- This is the third year in a row that prison releases were higher than admissions
- Probation condition violators have gone down over the past year, but court services supervised probations are increasing
- Parole/Postrelease condition violators reduced significantly during FY 2007
- Jessica's Law will be responsible for a significant growth rate in the offgrid prison population
- Projections proposed for the 10-year period would put the adult inmate prison population at 9,251 at the end of FY 2017; however the 10-year period leading up to that shows population increases and decreases.

Following a discussion by Commission members, a motion was made by Ms. Chris Mechler and seconded by Reverend Junius Dotson to approve the Kansas Sentencing Commission Fiscal Year 2008 Adult Inmate Prison Population Projections as presented. The motion carried.

Proportionality Subcommittee

Mr. Drees provided an overview of the Proportionality Subcommittee's meeting held this morning from 9 a.m. – noon. Former Chief of Police Ed Klumpp joined the subcommittee today as a probable new member, once the Recodification Commission takes action. Chief Klumpp is Vice-chair of the Recodification Commission and will be a liaison between the two groups. Discussion included plans for looking at:

- Property crime sentences and their proportionality
- Drug Grid
- Person crimes
- Sex offenses (will be saved for last).

Once they've looked at these sub categories, they plan to look at all the crimes as compared to one another. They're still discussing ideas of going to one grid verses two grids; and trying to create a grid that eliminates a lot of the special rules. They plan to meet monthly on the morning of each Commission meeting date in the Senate Room of the Jayhawk Tower.

Recodification Commission

Judge Solomon provided an update from yesterday's Recodification Commission meeting. Last month the Recodification Commission Chair and the reporters suggested adoption the Model Penal Code (MPC) rules on culpability, which would significantly change criminal culpability standards in Kansas. Ms. Pedigo came to yesterday's Recodification meeting and gave a very rational, logical and thorough explanation of the history and philosophy of the guidelines, and conveyed KSC concerns about how adopting the MPC culpability standards would impact sentencing philosophy, sentencing laws, proportionality, and the KSC/Vera proportionality study. She also highlighted some of what she sees as costs if the Recodification Commission does decide to adopt the MPC culpability standards. She explained that whatever the Recodification Commission decides, the KSC wants to work with them as partners. She also explained the KSC wants to do what they can to work together in the best interest of the state of Kansas. The Chair of the Recodification Commission disagreed with her analysis.

The Recodification Commission Chair and Reporters did not remember that they had focused the discussion last month on the MPC culpability provisions and indicated they just wanted to make some clarifications with regard to certain issues. They've taken the MPC discussion off the table at this time. Judge Solomon does not know how long it will remain there. He thinks the majority of the Recodification Commission favors making much smaller changes. When the KSC again offered them the opportunity of formal participation in the Proportionality Subcommittee, the Chair asked for a volunteer, and Ed Klumpp volunteered. There was no move to make him the formal designee of the Recodification Commission for the Proportionality Subcommittee at the August meeting, but an invitation was sent and action should be taken before or at the next Recodification Commission meeting. Judge Solomon thinks that the Recodification Commission will rely very heavily on the KSC and the work of the Proportionality Subcommittee. The Chair's stated intent at this meeting is that he wants to clarify things that are unclear in Kansas law and he wants to take any crimes or criminal statutes where the appellate courts are in conflict or he believes them to be unclear and resolve those conflicts or clarify them. They have indicated a need to draft a Report to the Legislature when they convene in January to show accomplishments thus far.

Agency Report

Ms. Pedigo provided and discussed an agency report, which outlined this month's main staff accomplishments. Items discussed included:

- Value Options meeting on SB 123 pre-approval procedure
- Journal Entry data entry stats
- JE training held in Kansas City; training DVD ready to dub for distribution with the DRM
- Desk Reference Manual now on website and at the printer
- E-Newsletter under development
- SB 123 36-Month Evaluation
- SB 123 invoices and expenditures
- Reentry
- NASC attendees
- Testimony

Next Meeting

The next Commission meeting is scheduled for Thursday, September 27th, 2007, at 1:30 p.m. in the Senate Room of the Jayhawk Tower.

A motion was made by Ms. Chris Mechler and seconded by Ms. Annie Grevas to adjourn the meeting. The motion carried, and the meeting was adjourned.