



Honorable Ernest L. Johnson, Chairman  
Helen Pedigo, Executive Director

**Kansas Sentencing Commission  
2009 Workshop  
Topeka Ramada Inn Hotel and Convention Center  
Grand Ballroom  
August 31 – September 1, 2009**

**Monday, August 31, 2009**

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission Workshop to order at 8:53 a.m.

**Participants:**

**Members:**

Honorable Ernest L. Johnson, Chairman  
Honorable Christel Marquardt  
Senator John Vratil, Senator Thomas Owens Designee  
Representative Janice Pauls  
Representative Pat Colloton  
Patricia Biggs, Kansas Parole Board  
Kris Ailslieger, Kansas Attorney General's Office  
Chris Mechler, Office of Judicial Administration  
Secretary Roger Werholtz, Department of Corrections  
Daniel Monnat, Private Defense Attorney  
Thomas Drees, Ellis County Attorney  
Captain Dale Finger, Leawood Police Department  
Annie Grevas, Community Corrections Program Director  
Jennifer Roth, Public Defense Office

**Guests:**

Chief Justice Robert E. Davis  
Justice Carol A. Beier  
Justice Eric S. Rosen  
Justice Lee A. Johnson  
Justice Lawton R. Nuss  
Mark Gleason, Office of Judicial Administration  
Howard Schwartz, Office of Judicial Administration  
Laura Klaversma, National Center for State Courts  
West Huddleston, Chief Executive Officer of NADCP

Richard Schwermer, Assistant State Court Administrator, Utah District Court  
Jason Thompson, Reviser of Statutes  
Crystal Sprague, Wyandotte County Drug Court Coordinator  
Jared Harsin, 3<sup>rd</sup> Judicial District Drug Court Coordinator  
JaLynn Copp, Office of the Governor  
Ed Klumpp, Kansas Criminal Code Recodification Commission

**Staff:**

Helen Pedigo, Executive Director  
Kunlun Chang, Director of Research  
Brenda Harmon, Public Service Administrator  
Jan Brasher, Fiscal Director  
Fengfang Lu, Senior Research Analyst  
Trish Beck, Program Assistant

**Opening Remarks**

Workshop handouts were provided to each participant including the agenda, presenter biographies, an article from the Missouri net, "Chief Justice Price enjoys dual roles", minutes of the July 23, 2009 KSC meeting, KSC 2010 Adult Inmate Prison Population Projections Report, information from Secretary Roger Werholtz regarding "Suggestions for controlling prison population growth", an article provided by Judge Johnson from The American Bar Association and The National Highway Traffic Safety Administration, "Highway to Justice".

Judge Johnson reviewed the agenda and thanked members of the Supreme Court for attending the Workshop. Judge Johnson introduced and welcomed Chief Justice Robert E. Davis.

Chief Justice Davis thanked the commission for the invitation and acknowledged the importance of the workshop. He reported that if the implementation of drug courts were to be adopted by the State of Kansas, it is imperative to have access to resources. Chief Justice Davis stated that the resources including comprehensive, cost efficient treatment programs would need to be staffed with competent substance abuse and mental health counselors to assist the offenders in achieving sobriety. Chief Justice Davis added that without this approach, recidivism will continue.

Chief Justice Davis introduced Chief Justice William Ray Price, Jr., Missouri Supreme Court, and Chairman of the National Association of Drug Court Professionals (NADCP).

**Missouri Drug Courts**

Chief Justice William Ray Price, Jr. thanked the Commission for the invitation. Chief Justice Price began by saying that, "Drug courts are the right thing!" In Missouri, 75% of inmates incarcerated are there because of drug convictions. He stated that the focus, regarding offenders convicted of drug and non-violent offenses, should be on the offender's underlying problem. Drug courts are more cost efficient, and save lives and families. Understanding that simple abstinence does not work, this group of offenders must receive treatment in order to gain skills to work through recovery. Justice Price presented a brief summary on how Missouri drug courts were implemented. He supplied a variety of resources, ideas, suggestions, and support to encourage the initiation of drug courts in Kansas. Justice Price introduced West Huddleston,

CEO of the National Association of Drug Court Professionals (NADCP) as a contact and provider to assist in training, education, and setting up problem solving courts.

**Justice Reinvestment and Reentry**

Judge Johnson introduced Dr. Tony Fabelo & Marshall Clement, Counsel of State Governments Justice Center. Judge Johnson expressed appreciation for their involvement and assistance to KSC while working toward the current goal of reducing prison population growth.

A PowerPoint presentation and handout was provided entitled, “Increasing Public Safety & Managing the Growth of the Prison Population”.

The presentation reviewed criminal justice reforms and impact, drivers of prison population growth, and discussion on policy options. KSC members discussed policy options involving goals, community corrections and parole supervision, enhancing effectiveness/creating other diversion policies, and revision of the sentencing guidelines to increase proportionality.

Meeting adjourned at 5:00 p.m.

**Tuesday, September 1, 2009**

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission Workshop to order at 9:15 a.m.

**Participants:**

**Members:**

- Honorable Ernest L. Johnson, Chairman
- Honorable Christel Marquardt
- Senator John Vratil, Senator Thomas Owens Designee
- Representative Janice Pauls
- Representative Pat Colloton
- Patricia Biggs, Kansas Parole Board
- Kris Ailslieger, Kansas Attorney General’s Office
- Chris Mechler, Office of Judicial Administration
- Secretary Roger Werholtz, Department of Corrections
- Daniel Monnat, Private Defense Attorney
- Thomas Drees, Ellis County Attorney
- Captain Dale Finger, Leawood Police Department
- Annie Grevas, Community Corrections Program Director
- Jennifer Roth, Public Defense Office

**Guests:**

- Richard Schwermer, Assistant State Court Administrator, Utah District Court
- Richard Morrissey, Treatment Court Coordinator, Missouri
- Laura Klaversma, National Center for State Courts
- Jason Thompson, Reviser of Statutes
- Crystal Sprague, 29<sup>th</sup> Judicial District Drug Court Coordinator
- Tressie Taylor, 8th Judicial District Drug Court Coordinator
- Jared Harsin, 3<sup>rd</sup> Judicial District Drug Court Coordinator

## **Opening Remarks**

Judge Johnson welcomed Richard Schwermer, Assistant State Court Administrator, Utah District Court.

## **Problem Solving Courts: A National & Utah Perspective**

Mr. Schwermer provided handouts for his PowerPoint presentation regarding an overview of Utah State Drug Courts. Additional information and handouts include:

- “Rule 4-409. Council approval of Problem Solving Courts”
- “Position Paper on Therapeutic Justice”
- Chief Justices Conference of State Court Administrators entitled, ”Resolution 3, Urging Federal Funding Entities to Allocate Drug Court Funds Through the Highest Judicial Authority of States and Territories”
- NPC Research (Northwest Professional Consortium, Inc.) a handout called “Drug Court Practices that Work: Adult Drug Court Practices Related to ‘Cost Savings’ (Costs Avoided)”.

Discussion centered around a variety of topics such as; Pre/Post Conviction, team involvement - and who is involved, the importance of assessments to help distinguish the appropriate placement “Risk/Need”, and the cost savings involved in comparison to other sentencing options. He recommended that anyone who will be involved, including Legislators, should go to a Drug Court graduation, to help fully understand the process. Provided within the PowerPoint handout were 10 Key Components providing guidance through the process while staying focused on KSC’s outlined goals. David Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (Addison-Wesley Educational Publishers, 1980) responded to the question, Our Goal? “Not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, to make him not a criminal but a worthy citizen.”

Richard Schwermer indicated that additional assistance may be found at the National Association of Drug Courts website: [www.allrise.org](http://www.allrise.org).

## **Nuts and Bolts of the Missouri State**

Rick Morrissey, Missouri Treatment Court Coordinator, provided handouts to his PowerPoint presentation, “Statewide Coordination of Treatment Courts – The Missouri Experience”. He shared his experience over the past 12 years, while discussing the process Missouri has undergone. He provided the handout, “Ten Key Components Checklist” to assist in the process. He emphasized that the programs are “diversion” programs and referred to them as “treatment courts”. Mr. Morrissey reviewed Missouri’s initial steps, possible funding sources, and provided additional information relating to:

- “Treatment Court Admission Form” which is part of their Web-based collection data for the centralized statewide court case management system
- “Missouri Revised Statutes, Chapter 478, Circuit Courts”

- A Request for Proposal from the State of Missouri Office of State Administrator, entitled, “Drug Courts Funding Request Fiscal Year 2010”, “Treatment Court Observation Form”, and from the Office of State Courts Administrator, “Drug Court Specialized Treatment”.
- The expansion and success of the programs defined by the statistics provided by the Drug Courts Coordinating Commission, “Treatment Court Program Status” Report.

### **Shawnee County Drug Court System**

Judge Johnson introduced Jared Harsin, Third Judicial District Court Drug Court Coordinator. Mr. Harsin presented information related to the Drug Court and programs which have existed since 2002 with a pilot program of 12 people. Mr. Harsin stated that 96 offenders have graduated from the Drug Court and 40 new offenders enter each year. He provided a handouts and information including:

- “Drug Court Program Eligibility Criteria”
- Informational sheet entitled, “About Drug Court”
- A list of “Treatment Providers” and
- A history of drug courts.

Mr. Harsin stated that starting in 2008, the program focus has been first time felony offenders, who are screened based on criminal history. The program is completely voluntary and incentives are provided during and after the program to help motivate these offenders.

Mr. Harsin explained that funds for the program come from government grant programs, County Commission, Shawnee County Sheriff, and the Tobacco and Drug Related Ordinance. An estimated cost of \$3,600 per offender is still less expensive than incarceration.

Mr. Harsin agreed to work with the KSC to identify potential federal funding for drug courts including Bureau of Justice Assistance (BJA) grant availability that would be awarded to state courts to operate problem solving courts. Second Chance Act of 2007 shall be a considered a resource for potential funding.

### **Brainstorming and Development of Recommendations**

Judge Johnson initiated discussion regarding consideration that Kansas move in the direction of drug courts. A motion was made by Judge Marquardt and seconded by Senator Vratil requesting Judge Johnson to approach Chief Justice Davis regarding the Judiciary’s support of drug courts. In the event, that Chief Justice Davis is supportive, the Sentencing Commission will recommend that the Supreme Court develop a drug court task force to seek state-wide implementation of drug courts.

The motion was adopted.

A motion was made by Representative Pauls and seconded by Chris Mechler to have the Sentencing Commission explore funding possibilities for a drug task force.

The motion was adopted.

A motion was made by Tom Drees and seconded by Judge Marquardt to have the Sentencing Commission pursue authority to move supervision of offenders from Community Corrections to Court Services if the offender is low risk needs, based on the LSI-R score, without court intervention.

The motion was adopted.

A motion was made by Senator Vratil and seconded by Representative Colloton to increase the court services supervision fee to an annual fee of no less than \$125 for misdemeanors, and \$250 for felonies.

The motion was adopted, with Jennifer Roth voting no.

A request was made for a bed impact/alternative projection that would show potential reductions in prison bed needs due to restoration of program funding. Funding would be restored for such items as: 4<sup>th</sup> time DUI Treatment \$.4 million restored to \$1 million; Academic/Vocational Education \$1.7 million to \$3.7 million; Day Reporting Centers \$0 to \$2.1 million; Sex offender Treatment \$1.8 million to \$2.6 million; Substance Abuse Treatment \$.2 million to \$1.1 million; and Community Transitional Housing \$0 to \$1.9 million. Discussion centered on a .75% overall growth rate, 101 postrelease revocations per month, and other assumptions that would mirror trends established prior to funding reductions.

Discussion relating to SB 123 Drug Treatment resulted in a request to provide the total number of SB 123 offenders scoring low risk for at least three months.

More brainstorming is needed and is planned to continue at the September Kansas Sentencing Commission meeting.

Meeting adjourned 4:37 p.m.