



**Minutes of the Kansas Sentencing Commission Teleconference Meeting
September 24, 2009**

The Honorable Ernest L. Johnson, Chairman, called the Kansas Sentencing Commission meeting to order on September 24, 2009, at 1:35 p.m. via teleconference.

Participants:

Members:

Honorable Ernest L. Johnson, Chairman
Honorable Christel Marquardt
Senator David Haley
Representative Janice Pauls
Representative Pat Colloton
Patricia Biggs, Kansas Parole Board
Kris Ailslieger, Kansas Attorney General's Office
Chris Mechler, Office of Judicial Administration
Charles Simmons, Department of Corrections, Designee
Daniel Monnat, Private Defense Attorney
Captain Dale Finger, Leawood Police Department
Thomas Drees, Ellis County Attorney
Jennifer Roth, 3rd Judicial District Assistant Public Defender

Guest:

Jarod Waltner, Legislative Research

Staff:

Helen Pedigo, Executive Director
Kunlun Chang, Director of Research
Brenda Harmon, Public Service Administrator
Jan Brasher, Fiscal Director
Jennifer Dalton, Accountant
Trish Beck, Program Assistant

Approval of the Minutes

Chairman Johnson referred to the minutes of the August 27, 2009, Kansas Sentencing Commission (KSC) meeting. A motion was made to approve such minutes, as written, by Jennifer Roth, and seconded by Chris Mechler.

A proposal was made to amend the KSC 2009 Workshop minutes by adding Jared Harsin, 3rd Judicial District Drug Court Coordinator to the roster as attending on August 31, 2009. A motion was made to approve the minutes, as amended, for the Workshop by Tom Drees and seconded by Honorable Christel Marquardt. The motion carried.

DUI Presentence Investigation Face Sheet

Two handouts were provided; Presentence Investigation (PSI) Report Face sheets from Leavenworth and Wyandotte Counties. After discussing various options regarding Journal Entries of Sentencing and/or PSI Face sheets relating to DUI's and other Nongrid Felony offenses, it was agreed that creating a separate supplement form to attached to the Journal Entry of Sentencing, similar to the required supplement forms currently used. Chris Mechler and Helen Pedigo will work together in creating this form and then provide it to Commission members for further discussion.

Continued Brainstorming on Prison Population Reductions

The following handouts were provided and discussed regarding reducing prison admissions in the event that recent funding reductions were restored to the Department of Corrections

- "Ten Year Adult Inmate Prison Population Projections – Assuming Funding Restored"
- "Ten Year Adult Prison Population Projection Comparison between KSC Official Projections and Workshop Request – Assuming Funding Restored"
- Charted information on 2008 Inmates Released with 90 days or less
- 2009 Inmates Released with 30, 60 and 90 days or less
- Letter to Representative Colloton from Secretary Werholtz, "Suggestions for controlling prison population growth".

Discussion also included how the restoration of funding would appear by referencing the last page of the KSC 2009 Workshop minutes. Funding would be restored for such items as: 4th 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.

Postincarceration/Probation subcommittee is looking closely at ways that supervision terms could be reduced to incorporate risk/needs while considering the severity level & types of offenders.

Modifying early release postrelease and increasing good time systematically was discussed at great length. The Commission discussed the option of an offender, deemed successful by the parole officer, being recommended to the parole board for an early discharge.

During the teleconference, Helen Pedigo emailed an analysis created last year, "Bed Space Impact Assessment Increasing Good Time from Current 15% and 20%, to 30%, 40%, or 50% for Guideline Offenders at Severity Levels D1 to D4 and N1 to N10".

Kris Ailsieger stated that the Attorney General will not support proposals that may reduce offender sentence lengths.

Proportionality Committee Update

Mr. Drees advised the Commission that the September 24, 2009 meeting was cancelled, and will not meet in October. It was decided that any incomplete work relating to projections for the Proportionality Committee would be suspended to allow the KSC staff to focus on the overall reduction of prison space analysis for the October KSC meeting. Reporting of the Proportionality analysis data will be postponed until the November 19th meeting.

The handout, "Summary of 2010 Proportionality Recommendations" was provided for the committee to review for future discussion.

Prison Bed Reduction Discussion

It was agreed to and requested that bed space impact assessments be completed as listed below.

- Increase offender earned good time from 20% to 30% or 40% for offenders whose offense severity level is a Drug 4, Nondrug 7, Nondrug 8, Nondrug 9 or Nondrug 10. The analysis will reflect retroactivity being applied and another without retroactivity applied.
- Increase the percentage of offender earned good time for all guideline offenders excluding offgrid and sex offenders. It was agreed that the percentage increase is 20% for person felony offenders (excluding sex and offgrid offenders); 30% for drug felony offenders and 40% for property felony offenders and other nonperson felony offenders. The analysis will reflect prison bed savings with retroactivity being applied and without it being applied.

The topic turned to legislation that would restrict admissions of offenders ordered to serve a very limited remainder of an incarceration term. Helen Pedigo explained that even though a significant number of offenders are admitted to prison and processed, with little time left to serve, this does not affect bed savings. This legislative policy would, however, save money at state and local levels.

A copy of a letter from Attorney General Six dated Sept 4, 2009 was provided in regards to his perspective on criminal justice policy and his approach to addressing proportionality concerns. Judge Johnson's response dated September 22, 2009 was also attached with some clarification to some of the Attorney General's concerns and thanked him for his interest.

Kris Ailsieger stated that the Attorney General will not support proposals that may reduce offender sentence lengths.

Reentry Policy Council Update

Judge Johnson provided an update on the Reentry Policy Council and advised that Attorney General Six has resigned from serving as the Chairman. Justice Lee Johnson chaired the meeting that was held on September 11, 2009.

Recodification Commission Update

Representative Pauls reported on the Recodification Commission as making progress. The Commission will meet again in October and November.

DUI Commission Update

Helen Pedigo provided an update on the DUI Commission meeting held on Sept 15 and 16, 2009. Judge Johnson reported that Chief Justice Davis provided approval to solicit the grant from the National Center of State Courts.

Patti Biggs requested that Betty Gurnell and Susan Yeres with NIC, be added to our resources regarding Drug Court training for adults and juveniles.

KSC Agency Report

Helen Pedigo presented the KSC Agency Report.

Representative Pauls requested that the topic of the Sentencing Commission providing a formal statement in support of the Kansas Parole Board be discussed at the next meeting,

Next Meeting

The next Kansas Sentencing Commission meeting is scheduled to be held on Thursday, October 22, 2009, at 1:30 p.m. in the Senate Room of the Jayhawk Tower building.