

**Statement by
Secretary Roger Werholtz
Kansas Department of Corrections**

**Hearing on
Justice Reinvestment**

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**Commerce, Justice, Science, and Related Agencies
Appropriations Subcommittee
U.S. House of Representatives**

Chairman Mollohan, Ranking Member Wolf, and Members of the subcommittee:

Thank you for the opportunity to speak to you about the work we have been doing in Kansas regarding Risk Reduction, offender reentry and justice reinvestment. When you come to Kansas and speak with an employee of the Kansas Department of Corrections, somewhere in that conversation you will most likely hear us say that our role is to make Kansas a safer place to live, work and raise our families. Our vision statement is: "A safer Kansas through effective correctional services." That seemingly straightforward statement, however, is not as simple as it would first appear to most of us. Back home, we can all agree that we want a safer state. Where we sometimes disagree is how best to get to that goal, and what constitutes effective correctional services.

Let me tell you first why you or your staff may want to examine the rest of the information provided in this written testimony. With the help of many, many people and organizations, we have been able to achieve some things of which we are very proud and which have been of great benefit to our state. We have been able to shrink our prison population from its historic high in 2004 by 7.5%. We have reduced our monthly parole revocation rates from their 2003 levels by 48%. Our facilities report that inmates grievances have declined from their 2004 levels by 36%. Our special enforcement officers indicate that parole absconders have declined by 70%

from their historic highs. Most importantly, the reconviction rates for parolees has been reduced. If all of these other reductions had been achieved by simply ignoring negative offender behavior we would have accomplished little of value and we would certainly have not made Kansas safer. But, when we compared the reconviction rates from felonies committed by parolees under our supervision we saw a 35% reduction when compared to the period before we began our risk reduction efforts. I can think of no better measure for making my state safer than that statistic. What follows is a detailed description of how we got to these numbers.

In 2003 and 2004 we began to have that discussion internally within our agency and externally with the Kansas legislature; with various stakeholders such as victims groups, prosecutors, law enforcement, city and county officials, editorial boards, and citizens at large. We started out by looking at the strategies we used to make our state as safe as possible and the data that would indicate how well we were performing. We also looked at what was established in statute to see what direction that gave. What we learned is that conflicting strategies have been prescribed over time which should not be surprising since the debate in this country over the best way to respond to crime has swung back and forth between varying theories in the last hundred years. If one looks at the statutes that created the Kansas Department of Corrections, it is clear that our primary purpose is to rehabilitate offenders placed in the custody of the Secretary and return them to the community as soon as possible with an expectation that they will successfully reintegrate into our communities. If one looks at our sentencing statutes, one would conclude that the purpose of the Department of Corrections is to confine offenders for a prescribed period of time with maximum emphasis on incapacitation and "just desserts." When talking with the various stakeholders inside and outside the system, one would hear responses all across the spectrum regarding what our methods and tactics should be and how our performance should be judged.

As we worked through this systematic self examination, we began to characterize our role in making Kansas safer as a two pronged approach labeled "risk management." Within that approach were two distinct strategies which we labeled "risk containment" and "risk reduction." Containment strategy most simply stated is that an offender will be confined in the least restrictive setting necessary to prevent that individual from harming members of the community. The risk to the public posed by a given offender is contained within the confinement setting until that individual is released from that setting. Risk reduction strategy attempts to reduce the probability that an offender will harm a member of the public regardless of the environment in which the offender is found. Risk reduction acknowledges that most incarcerated offenders return to our communities, and the focus of risk reduction is to minimize the amount and level of harm those returning offenders create when they inevitably return.

Another way to think of this is to think about what a department of corrections like mine is most frequently criticized. Typically we are called to task for three things: cost, escapes, and what offenders do after they are released. We decided to try to establish some performance measures for the latter two dimensions since operating costs are pretty simple to assess. When looking at our containment operations we decided to measure how likely a citizen is to be

physically harmed by a Kansas prison inmate and what we could do to improve upon our level of performance. If one simply divides the average daily Kansas prison population by the number of escapes and walkaways we experience annually, we found that the probability of a Kansas inmate leaving a Kansas prison and physically harming a citizen was less than 0.0098%. It was pretty easy to conclude that we are pretty good at this side of the corrections business, and no matter how much harder we tried or how many more resources we invested, it would be very difficult to raise our level of performance.

On the other hand, in 2003 we were returning parolees to prison once they were released at a rate of 55% or more over a five year follow up period. If we were going to make Kansas safer, this is the area that offered the greatest opportunity. We made a commitment to improve our agency's level of performance in this area while not reducing our level of performance along the risk containment dimension. We began this effort by looking at the correctional research literature to identify those tools and practices that had shown the greatest sustained impact on reducing the probability that someone released from prison would return to prison or re-offend. Much of this information is referred to as the "what works" literature. We received help from a large number of local, state and national partners including the Council of State Governments, the National Institute of Corrections, the Center for Effective Public Policy, the Pew Center, and the JEHT Foundation to name just a few.

Based on what we learned, we took this information to the Kansas legislature and in appearances before our budget and judiciary committees, we requested that they formally endorse these strategies and we asked them to judge our performance on a set of criteria that included reduction of revocation, absconding and re-offense rates. We also asked them (and this was critical) not to judge us on individual events, but rather on our ability to change trends. Given the population with which we work, we are unable to offer absolute guarantees of safety. We told the committees that some of the people under our supervision would re-offend and some of them would hurt people again, sometimes very seriously. We asked them to evaluate us on our ability to reduce the frequency with which those events occur. The committees all agreed and have held to that commitment for five years now. The importance of that should not be underestimated. When a tragedy occurs precipitated by the actions of an offender under supervision, the first response of the media, politicians and the public is to blame the probation or parole officer supervising that offender. On some occasions, that blame may be justified, but most often in my experience, it is unrealistic to expect a probation or parole officer to accurately predict criminal behavior and be able to intervene to stop a crime from occurring. Too often, officers avoid the risk of that criticism by simply responding to every violation of release with a revocation, i.e. returning the offender to prison. The individual officer is rarely, if ever, criticized by the those outside his/her agency for taking such an action even though the result of that type of response is to actually increase the probability that that the offender will reengage in criminal activity.

With the broad based support of the legislature coupled with endorsements from Governor Kathleen Sebelius and Senator Sam Brownback, we began a massive skills development and training/retraining effort to equip personnel with the necessary skills and tools to make data

driven and informed decisions about which offenders to target for the highest levels of supervision and treatment, what issues those interventions should target, and how those interventions and supervision should be delivered. Most position descriptions within the department were rewritten to reflect the skills required to do this work, interview questions and selection criteria were changed to emphasize what it would take to succeed as an employee of this agency, and performance evaluations were restructured to take into account the new skills needed and the new expectations put in place for those positions. And staff are periodically tested for proficiency. Just as corrections officers need to do periodic weapons qualification, parole officers and corrections counselors need to be able to accurately assess an offender on the LSI-R risk assessment instrument. All staff learned new skills based on their particular jobs that were geared to reinforcing the risk reduction side of our mission with the goal of becoming as good at risk reduction as we are at risk containment.

In 2007 the Kansas prison population was still projected to grow quite dramatically because of the high level of probation revocations (these are offenders supervised by local community corrections and court services programs). Estimates and analysis conducted by the Council of State Governments for the Department of Corrections and the Kansas legislature predicted that the state would have to expend an additional \$500 million dollars above the current FY 2007 levels to construct and operate the additional prison space projected to be needed over the coming decade. For a state with the population of Kansas this would comprise a huge investment of state resources. The legislature, after seeing the preliminary results of the work being done with parolees, chose instead to create an incentive for locally operated community corrections programs to employ the same risk reduction strategies that had been in place for parolees for a couple of years with the idea of reducing or flattening the rate of growth projected for the prison population.

The 2007 legislature passed SB 14 which provided an additional \$4 million dollars to the roughly \$15.5 million in support already provided to local community corrections programs through operating grants administered through the Department of Corrections. However, the legislature also created an expectation that programs receiving the additional funding reduce their revocations by 20% within two years from their FY 2006 levels. The Department of Corrections was given the latitude to distribute those funds, and we required that each program identify who their high risk population was, how they would use the additional money to address those risks, and what the research was to support the validity of the services and interventions they proposed to put in place. The programs actually achieved the 20% reduction within one year and exceeded it in the second year.

SB 14 also created incentives for prison inmates to participate in treatment and education programs that addressed their specific risk issues by providing the opportunity to earn additional sentence reductions or "good time" for successful completion of the specified programming. It also increased the amount of good time that could be earned by certain lower level offenders. The Council of State Governments, in an estimate prepared for the Kansas Legislature, estimates SB 14 will allow the state to avoid about \$80.2 million in additional costs over five years.

Kansas has not been immune to the severe economic downturn we have experienced in the last year. We are concerned that some of what has been put in place to achieve these outcomes will be lost, at least for a period of time. But what we are also certain of is that the reductions we are having to make now would have had a much more severe impact on public safety had we not taken these steps in the last six years. We were able to close three small prison units and a cell house at a fourth that will save us over \$4 million annually. We are optimistic that the skills acquired by our staff and our partners as part of this process will help mitigate some of the adverse impact of losing so many treatment and education resources. We are hopeful that when the economic recovery comes, we can use our experiences as a roadmap to rebuild our system even stronger and achieve both our risk containment and risk reduction goals.