



PERFORMANCE AUDIT REPORT

A K-GOAL Audit of the Department of Corrections, Part II: Assessing the Department's Procedures for Dealing with Parole Violators

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
August 1999**

Legislative Post Audit Committee

Legislative Division of Post Audit

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August 19, 1999

To: Members, Legislative Post Audit Committee


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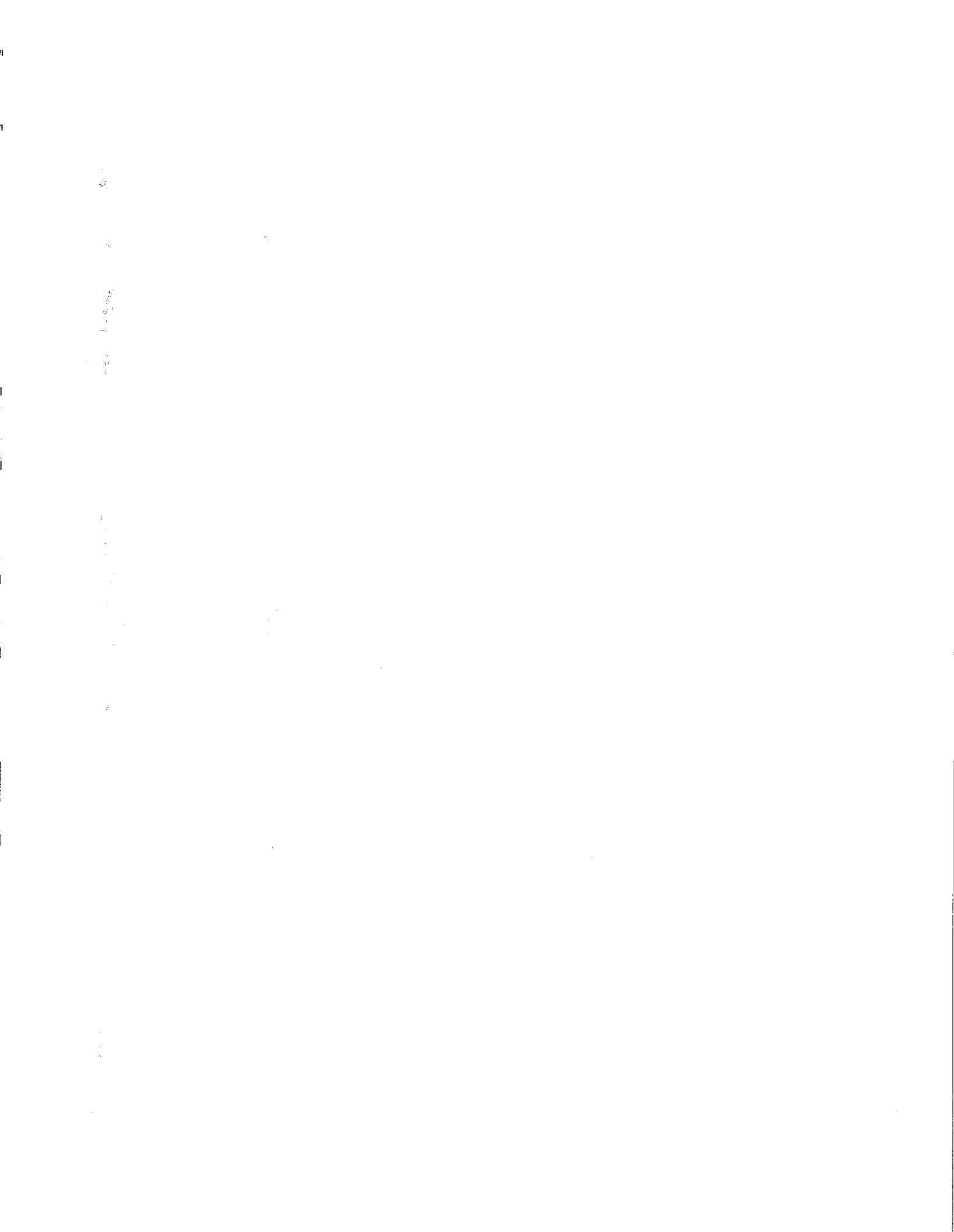
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This report contains the findings, conclusions, and recommendations from our completed performance audit, *A K-GOAL Audit of the Department of Corrections, Part II: Assessing the Department's Procedures for Dealing with Parole Violators*.

The report also contains appendices showing the Condition Violation Alternative Grid-- the primary tool parole officers use in sanctioning parole violators. In addition, we've included a summary of survey responses from parole officers and supervisors.

The report includes a recommendation for training officers on use of the grid. We also recommend the Department consider suggestions offered by parole officers and others for improving the grid. We recommend that the Department monitor whether officers are completing all supervision tasks, and whether warrants are being issued in a timely manner. Finally, we recommend that the Department seek resources to ensure that all sanction options are available. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.


Barbara J. Hinton
Legislative Post Auditor



EXECUTIVE SUMMARY
LEGISLATIVE DIVISION OF POST AUDIT

Question 1: What Criteria Has the Department of Corrections Established for Parole Officers To Use in Recommending Sanctions for Parole Violators, And Do They Appear To Be Adequate to Protect the Public's Safety?

The Department has established guidelines for managing parolees who violate their parole. page 6
The Department categorizes parole violations into Class A (more serious) and Class B (less serious). The Department has adopted the Condition Violation Alternative Grid to guide parole officers in deciding what sanctions to impose for the more serious Class A parole violations. The sanction options available to parole officers give them some latitude in dealing with parole violators, and vary according to the seriousness of the offense and the parolee's level of supervision. When deciding what actions to take, parole officers told us they consider the danger to the public, and the violator's history. A parole officer may impose a harsher or more lenient sanction than the grid calls for if he or she can convince the parole director that it's justified. Guidance on how to use the grid is provided in the Department's policies and through parole officer training courses.

Most states don't have sanction criteria as formalized as Kansas' criteria, and those that do are less strict on certain types of parole violations. page 10
We contacted nine other states and found only three that have written guidelines spelling out specific penalties to be applied to parole violators. In terms of general supervision, Kansas requires its parole officers to have more contact with lower-risk parolees than six comparison states. Kansas supervision standards for high-risk parolees were comparable to the other states. Likewise, the sanctions called for under Kansas' parole grid generally are similar to those of the other states, but appeared to be stricter for certain types of parole violations, such as possessing a weapon or being convicted of a new felony crime.

The lack of comparison data makes it difficult to know what impact the sanctioning grid has had on protecting the public's safety. page 12
No criteria can completely protect the public from being harmed by those on parole. We examined crime rates to try to gauge how effective Kansas' system is at protecting the public. A smaller percentage of Kansas parolees have committed crimes while on parole than parolees in other states. However, Kansas parolees have committed more violent crimes than parolees in two other states for which comparison data was available

About half the parole officers and supervisors we contacted told us the grid wasn't adequate to protect the public from harm. page 13
Survey respondents cited a number of problems with the grid, some of which were also mentioned by Department officials and Parole Board members. These problems include not enough behaviors being considered violations, sanctions not being strict enough, and sanctions not being available.

Conclusion page 14

Recommendation page 15

Question 2: Are Parole Officers Following the Criteria or Guidelines the Department Has Established for Handling Parole Violators?

Department officials routinely conduct two types of reviews to determine whether parole officers are following Department guidelines and using the sanctions called for by the grid. page 16
First, parole supervisors review 20 cases from each parole officer each year. During this review, supervisors check whether the officers are meeting basic supervisory requirements, and whether officers are following the sanctioning grid. The Department has also established a Serious Incident Review board to review "serious incidents" involving parolees— most of which are arrests for new crimes.

The parole supervisor reviews we examined showed that few parole officers are meeting all the Department's requirements for supervising parolees. page 17
We examined the results of eight months of supervisory reviews for 79 officers. We found only 9 officers met the requirements for three supervisory tasks— field contacts, urinalyses, and employer notifications. An increase in officer caseloads, and an increase in supervision responsibilities could be contributing to the officers' failure to complete all the required tasks when supervising parolees.

In our random sample of cases, we found that parole officers didn't follow the sanctioning grid 18% of the time. page 19
We reviewed 100 parolee files and checked to see whether parole officers were issuing appropriate sanctions in response to violations by these parolees. We found parole officers issued sanctions in accordance with the grid 82% of the time. For 15% of the violations, the officer imposed no sanction or was more lenient than the grid called for. Most of these violations related to substance abuse and failing to report. We found a few incidents where the parole officer was harsher than the grid allowed.

In our review of incidents involving 28 parolees who were charged with serious crimes while on parole, we found that parole officers hadn't followed the sanctioning grid 42% of the time. page 21
We found 6 of the 28 parolees hadn't committed any violations of their parole before being charged with committing a new crime. Three parolees could've been revoked prior to being charged with committing a new crime, but weren't. The grid wasn't followed in these cases. The remaining cases where the grid wasn't followed didn't involve possible revocation. Other problems with these cases involve officers not meeting the supervision requirements, warrants for arrest not being issued in a timely manner, and parolees not being supervised for periods of time due to miscommunication.

Conclusion page 26
Recommendations page 27

APPENDIX A: Scope Statement page 29

APPENDIX B: Two Ways Offenders in Kansas Are Released from Prison page 32

APPENDIX C: Condition Violation Alternative Grid page 33

APPENDIX D: Summary of Survey Responses from Parole Officers and Supervisors page 36

APPENDIX E: Agency Response page 39

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A K-GOAL Audit of the Department of Corrections, Part II: Assessing the Department's Procedures for Dealing with Parole Violators

The Kansas Governmental Operations Accountability Law (K-GOAL) requires Legislative Post Audit to conduct a performance audit of specified State agencies each year. The law was to ensure that State agencies and programs are periodically reviewed, and accomplish their stated purposes. K-GOAL audits can help determine the necessity, propriety, and legality of the operations we review and evaluate, and can identify inefficient or ineffective operations. Through this process, the Legislature can act to retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations.

For 1999, we are required to audit the Department of Corrections. This audit was conducted in two parts. Part I focused on legislative concerns about how the Department covers staff shortages at prison facilities, how corrections officer salaries and turnover rates compare with other nearby states and federal facilities, and how reliable prison communications equipment is. That audit was completed and presented to the Legislative Post Audit Committee in July 1999.

This audit—Part II—focused on the Department's actions to ensure that parole violators are dealt with appropriately. The complete text of the audit request approved by the Legislative Post Audit Committee is shown in Appendix A. This audit addresses the following questions:

- 1. What criteria has the Department of Corrections established for parole officers to use in recommending sanctions for parole violators, and do those criteria appear to be adequate to protect the public's safety?**
- 2. Are parole officers following the criteria or guidelines the Department has established?**

To answer these questions we reviewed the Department's policies and procedures relating to disciplining parole violators. We compared Kansas' discipline guidelines with those of other states. We also compared Kansas' crime statistics with those of other states to determine whether Kansas' parolees were committing more or fewer crimes than parolees in other states. We reviewed information the Department compiles about whether parole officers are making the required number of contacts with the parolees they supervise.

We also reviewed 100 files of parole violators in Kansas to determine whether the Department's officers followed guidelines for imposing sanctions for parole violations. In addition, we looked at the Department's internal reviews of 28 serious incidents involving parolees during the past three years to determine whether parole officers followed guidelines in those cases. Finally, we surveyed 30 parole officers and supervisors and interviewed all Parole Board members and Department officials to get their opinions of how the system works, and how it could be improved.

In conducting our audit work, we followed all applicable auditing standards set forth by the U.S. General Accounting Office, except we didn't independently verify data reported by other states on crimes committed by parolees in those states. We obtained this information from a third-party publication, and used the information for a general comparison. Also, we didn't verify information the Department compiled about whether parole officers had made the required number of contacts with parolees. While we have no reason to believe these numbers are inaccurate, any inaccuracies could affect our conclusions about how well parole officers are fulfilling their supervision requirements.

Our findings begin on page 6, after a brief overview of Kansas' parole system.

Overview of the Kansas Parole System

When inmates are released from Kansas prisons, they're subject to a period of post-release supervision, or parole. During that time, their behavior is monitored by Department of Corrections' parole officers. An inmate's parole can last from a few months to several years.

Inmates sentenced before the 1992 Sentencing Guidelines Act went into effect (July 1, 1993) are released either when they are granted parole by the Kansas Parole Board, or when they reach their conditional release date. That date is the end of their sentence, less any credits earned for good behavior while in prison. Good time credits may reduce the sentence for these inmates by as much as 50%. For inmates sentenced after July 1, 1993, release occurs automatically once they've reached their guidelines release date. That date is the prison portion of their sentence, less any good time credits. Currently, good time credits may reduce the sentence for these inmates by as much as 15%. In some cases, inmates must automatically be released several months to several years before the end of their sentence. The graphic in Appendix B further explains the differences between the two types of post-release supervision in Kansas.

Before either group of inmates is released, the Parole Board establishes certain conditions each must follow to remain outside prison. Those conditions include such things as:

- reporting to a parole officer on a regular basis
- finding or keeping a job
- not using illegal drugs (and agreeing to be tested)
- not possessing or transporting a weapon
- following all federal, State, and local laws
- working toward completing a secondary education, if applicable
- agreeing to pay restitution to their victims, court costs, and the like

Kansas parole officers supervise all those offenders who've been granted parole, guidelines release, or conditional release and live in the State. For ease of reporting, this report will refer to all people supervised by Kansas parole officers (on parole, on conditional release, or from other states) as parolees.

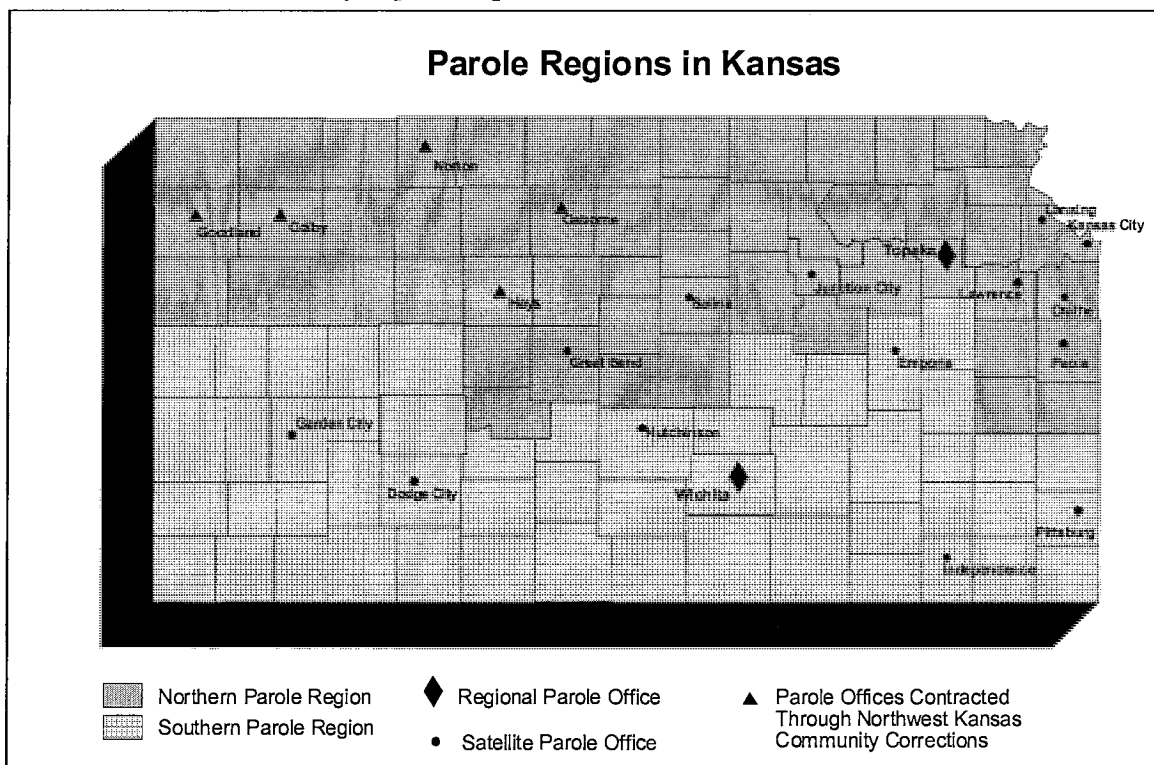
The Department's Parole Officers Are Responsible for Ensuring That Parolees Under Their Supervision Follow the Conditions of Their Release and Don't Become a Threat to the Public

They're also required to know the whereabouts of each parolee under their supervision. They are supposed to do this by:

- having periodic face-to-face and telephone contacts with the parolee
- visiting the parolee's home and workplace
- notifying employers to make sure they are informed of the parolee's crimes
- requiring parolees to submit to drug tests
- monitoring the parolee's contact with law enforcement officials

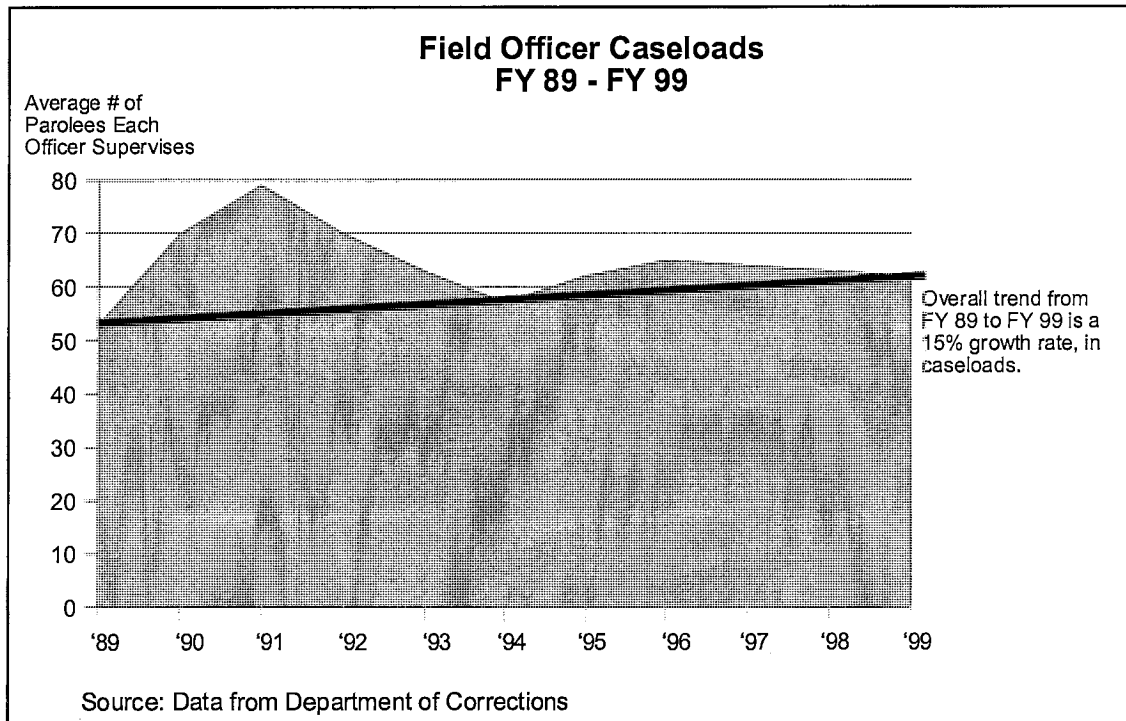
In addition, parole officers counsel offenders regarding employment, availability of community resources, and housing. They also help parolees find and enter substance abuse treatment programs. If the parole officers find that a parolee isn't complying with the terms of his or her release from prison, they can impose a variety of sanctions, as discussed in detail in question one of this report. For serious violations, they can recommend that the Parole Board revoke parole.

The headquarters for the two parole regions are located in Topeka and Wichita. The accompanying map shows which counties are in each of the parole regions. The Department also has satellite parole offices at 14 locations across the State. In all, the Department had 141 parole services staff as of the end of fiscal year 1999. Of those, 92 officers directly supervise parolees.



Parole officer caseloads have grown 15% over the last 10 years, but have leveled off in recent years. In fiscal year 1999, the average caseload was about 61 parolees per officer, compared to 53 parolees per officer in fiscal year 1989, an increase

of 15%. For the past five fiscal years, caseloads have averaged about 63 parolees per officer. The following chart shows these caseload changes over the past 10 years.



Although caseloads have leveled off in recent years, the 10-year trend shows that staffing hasn't kept up with increases in the parole population. The chart below shows this:

	<u>FY 89</u>	<u>FY 99</u>	<u>% Change</u>
Parole population	3,680	5,643	53%
Field officer staff	70	92	31%

The 1999 Legislature approved nine more parole officer positions for the Department, bringing the total number of officers available to directly supervise parolees to 101.

What Criteria Has the Department of Corrections Established for Parole Officers to Use in Recommending Sanctions for Parole Violators, And Do They Appear To Be Adequate to Protect the Public's Safety?

The Department has established a formal "grid" to guide officers in determining what sanctions to impose on parolees who violate the terms of their release. Although the grid requires specific actions for some types of parole violations, it gives parole officers latitude for other types of violations. Parole officers told us that, in deciding what actions to take, they consider such things as the danger the violator presents to the public, the violator's history, and the perceived effectiveness of the sanction.

Kansas is one of only four states we found with formal written criteria for their parole officers to follow when imposing sanctions; in the other states, that decision is left to the parole officer's judgment. Compared with the states that have written criteria, Kansas' sanctions for most violations appear to be similar. For some types of violations, however, Kansas appears to be more strict. No criteria can completely protect the public from harm, and because comparison data are so limited it's difficult to know what impact Kansas' grid actually has had on protecting the public's safety. However, about half the parole officers we surveyed said they thought the State's grid wasn't adequate to protect the public from harm. The reasons they cited included not enough behaviors being considered as violations, and some sanctions not being strict enough. These and related findings will be discussed in more detail in the sections that follow.

The Department Has Established Guidelines for Managing Parolees Who Violate Their Parole

One of the first things parole officers do when new parolees are assigned to them is conduct a formal risk and needs assessment to determine the appropriate level of supervision for each parolee. The parole officer is required to complete this initial assessment within the first 30 days of the parolee's supervision, and to update it every six months.

There are four basic levels of parolee supervision. The requirements for each are set out in the box on the next page. The level of supervision assigned to a parolee is based on a number of factors—including past criminal history, drug or alcohol abuse, and the like. The level of supervision determines such things as how frequently the officer must visit the parolee's home or work, and how often the parolee must report to the parole office. These are the basic techniques parole officers use to determine whether parolees are complying with the conditions the Parole Board has established.

Levels of Supervision and Contact Requirements for Kansas Parolees

Level of Supervision	Hours per Month to Supervise the Parolee	Frequency of Contacts Required						
		Personal Contacts With the Parolee	Contacts With 3 rd Parties Who Have Information About the Parolee	Verification of:			Field Contacts:	
				Employ/ Training	Home Address	Program Attendance	At Home	At Work or School
High	4.0	3 per mo	2 per mo	2 per mo	--	1 per mo	1 per mo	1 per 3 mos
Close	2.5	2 per mo	1 per mo	2 per mo	1 per mo	1 per mo	1 per 2 mos	1 per 4 mos
Intermediate	1.0	1 per mo	1 per mo	1 per mo	1 per mo	1 per mo	1 per 3 mos	1 per 6 mos
Reduced	.33	1 per mo*	--	1 per 4 mos	1 per 4 mos	1 per 4 mos	As needed	

* Contact may be made by offender calling in to an automated system instead of face to face contact.

In addition, Department policies require all parolees who are undergoing substance abuse treatment or have a documented history of illicit drug use to receive a drug screen at least once a month. A documented history includes a diagnosed addiction to drugs, drug use involved in the commission of a crime, or drug use contributing to problems with employment or family functioning.

The Department has adopted the Condition Violation Alternative Grid to guide parole officers in deciding what sanctions to impose on parole violators. Violations committed by parolees can vary from relatively minor infractions to very serious incidents such as committing a new felony. The Department categorizes parole violations into class A and class B violations. Class B violations are considered minor and include missing one appointment, minor traffic infractions, or changing jobs without notifying the parole officer. Appropriate responses to class B violations include reprimands, restricting travel or increasing drug testing.

The more serious types of violations, which we focused on in this audit, are the class A violations. They include committing new crimes, missing two or more consecutive appointments, or threats of violence. When parole officers find that parolees have committed a class A violation, they're supposed to use the grid to determine what actions to take. Sometimes the grid calls for a specific action. For example, it lists revocation as the only sanction alternative if a parolee is caught possessing a weapon. Most other times, however, the grid allows the parole officer to choose from a number of possible sanctions. Typical sanction options are shown in the box on the next page.

The Condition Violation Alternative Grid Gives Parole Officers the Following Sanctions For Disciplining Parolees:

- *Community service*—the parolee provides unpaid work to nonprofit or local government agencies
- *Additional urinalyses*
- *Travel restrictions*
- *Intensive supervision*—the parolee is supervised through a referral to a local community corrections program that has more frequent face-to-face contacts with the offender
- *Electronic monitoring*—the parolee wears equipment, typically an ankle bracelet, that verifies the parolee's presence in a monitored location, usually the home
- *Structured-Living Program*—the parolee is assigned to a privately operated community-based living center that provides assistance to parolees in finding jobs, entering education/training programs, and accessing treatment programs
- *Jail time*
- *Pre-revocation*—the parolee is placed in a KDOC facility that is designated to receive parolees for 45 days in lieu of revocation
- *Revocation*—the parolee is returned to prison for 90-180 days

The sanction options available to parole officers give them some latitude in dealing with parole violators, and vary according to the seriousness of the offense and the parolee's level of supervision. Also, the parole officer must consider if there are any aggravating factors that would call for more severe sanctions.

For example, if the current violation is consistent with the parolee's previous convicted criminal behavior, or if the parolee failed to complete a previously imposed sanction or inpatient treatment, those would be considered aggravating factors.

When they're allowed to choose among various sanctions, parole officers told us they consider a number of factors:

- the parolee's behavior while on parole
- the parolee's prior criminal convictions
- the sanction(s) that seem most appropriate or effective in helping or punishing the parolee, and in protecting the public safety
- the availability of a particular sanction. For example, the grid might list a pre-revocation program as a sanction option. Pre-revocation involves sending the parolee to a Department facility (prison) for a period of 45 days. If no prisons have bed space available, pre-revocation isn't a viable option.
- the amount of time required to administer a sanction. In other words, if a sanction will require a great deal of time and paperwork to impose, it becomes a less attractive alternative to the parole officer.

The graphic on page 9 depicts in general how the grid system works. A complete copy of the grid can be found in Appendix C.

A parole officer also may impose a harsher or more lenient sanction than the grid calls for if he or she can convince the parole director that it's justified. At times, parole officers may decide that none of the alternatives available through the grid are appropriate. If this happens, Department policy allows the officer to impose either a

Use of the Condition Violation Alternative Grid

2a. Supervision Level

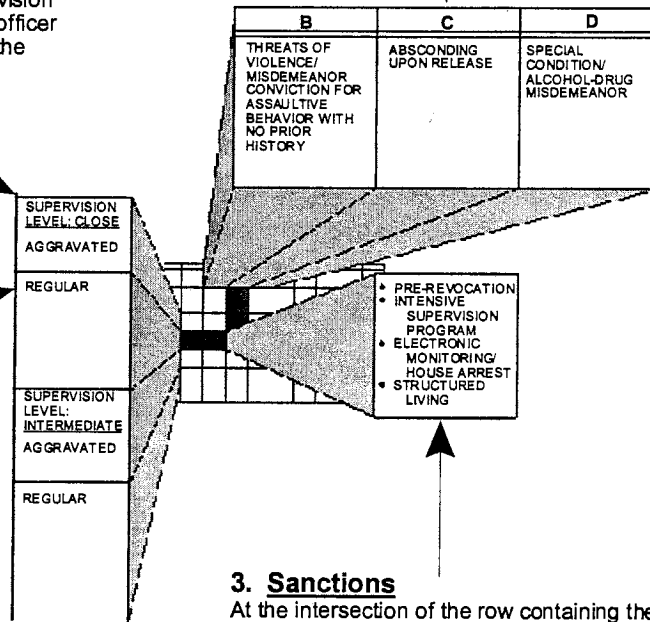
The parolee's supervision level is located in the left-hand column of the grid. The supervision level was pre-determined by the parole officer by completing a risk assessment when the parolee was first released.

2b. Aggravated vs. Regular

The parole officer determines if there are aggravating circumstances associated with the violation. If there are, the sanctions will be more severe.

1. The Violation

The type of violation that has occurred is selected from the top row of the grid.



3. Sanctions

At the intersection of the row containing the supervision level and the column indicating the type of violation, the Grid gives the parole officer a list of sanctions from which to choose.

more-severe or less-severe sanction than the grid would normally call for. All such departures must be approved by the parole director or his or her designee.

Guidance on how to use the grid is provided in the Department's policy and procedure manual and through parole officer training courses. The Department's manual gives parole officers a set of instructions for using the grid, including definitions of violations, various sanctions, and aggravating factors. These instructions give parole officers their primary guidance in using the grid.

Further, parole officers receive instruction in making sanctioning decisions as part of their basic and annual training. They receive 200 hours of basic instruction in their first year, and another 40 hours of annual training in subsequent years. Department officials told us that about 8 hours of initial basic training and 4-12 hours of annual training are devoted to applying grid sanctions.

Most States Don't Have Sanction Criteria as Formalized as Kansas' Criteria, and Those That Do Are Less Strict On Certain Types of Parole Violations

We contacted officials at the Bureau of Justice Statistics, the National Institute of Corrections, and corrections officials in nine other states to determine what criteria other states use in deciding what types of punishments to impose on parole violators. These officials told us that most states don't have written guidelines spelling out specific penalties to be applied for certain types of parole violations. We then compared Kansas' grid with the written guidelines adopted by the three other states we found that have written criteria—Washington, South Carolina, and Oregon. We also compared Kansas' requirements for routine supervision of parolees with these three states, and three others—Colorado, Iowa, and Oklahoma.

In general, Kansas requires its parole officers to have more contact with lower-risk parolees than the six comparison states. The amount of contact a parolee is supposed to have with his or her parole officer is determined by the level of supervision that's been assigned to that parolee. In comparing the similarities and differences in this area among the states' reporting requirements, we noted the following:

- the supervision standards for higher-risk parolees in Kansas are fairly comparable to the other states we reviewed. For example, at the highest level

Comparison of Supervision Requirements For the Lowest-Risk Parolees Kansas and Six Other States						
State	Frequency of Contacts Required					
	Contacts With Offender			Verification of:		
	Total Personal Contacts	Home Contacts	Work or School Contacts	Employment/ Training	Home Address	Program Participation
Kansas	1 call per month	as needed	as needed	1 per 4 months	1 per 4 months	1 per 4 months
Colorado	1 per 6 months	n.a.	n.a.	n.a.	n.a.	n.a.
Iowa	1 per 3 months	n.a.	n.a.	n.a.	n.a.	n.a.
Oklahoma	n.a.	1 per 3 months	n.a.	within 30 days	within 30 days	n.a.
Oregon	1 file check per month	n.a.	n.a.	n.a.	n.a.	n.a.
South Carolina	1 per 3 months	1 per 3 months	n.a.	n.a.	n.a.	n.a.
Washington	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.

Source: LPA survey of other states

of supervision, Kansas requires parole officers to have three face-to-face contacts with each parolee each month. Three states require two contacts per month, and three require four.

- at the lowest level of supervision, Kansas requires more contacts. At that level, Kansas still requires parole officers to verify employment and home address routinely. Also, parolees on reduced supervision are required to call in once a month. The other states require their parole officers to make contacts only once every three-to-six months, if at all. The table on page 10 shows this.

The sanctions called for under Kansas’ parole grid generally are similar to those of other states, but appeared to be stricter for certain types of parole violations. Our reviews showed that each state’s criteria tended to offer a number of similar sanction choices for parole officers to choose from. The following example shows this.

Example of Sanction Choices in Kansas and Three Other States

Offense	Kansas	Washington	South Carolina	Oregon
Two or more positive urinalyses	Choice of: <ul style="list-style-type: none"> ● Intensive supervision plan ● Electronic monitoring/ house arrest ● Increase frequency of urinalyses ● Structured living ● Community service 	Consider first: <ul style="list-style-type: none"> ● Increased reporting ● Increased monitoring ● Curfew ● Education ● Treatment ● Improvement activities Then consider 10- 30 days of: <ul style="list-style-type: none"> ○ home detention ● work crew ● community service ● jail ● pre-release ● work release 	Choice of: <ul style="list-style-type: none"> ● Counsel / verbal / written reprimand ● Restructure plan ● Increase drug testing ● Increase reporting requirements ● Treatment 	0-15 units. A unit can consist of: <ul style="list-style-type: none"> ● 1 day jail ● 1 day work center ● 1 day house arrest ● 16 hours community service ● 16 hours work crew ● 1 day treatment

Source: LPA survey of other states

Kansas’ grid seems to be stricter than Washington’s and South Carolina’s for serious violations, like possessing a weapon or being convicted of a new felony crime. In Kansas, parole revocation is the only option for the first occurrence of either violation—regardless of the parolee’s level of supervision. In Washington and South Carolina, parole revocation becomes an option for the parole officer only the second or third time a parolee commits either violation.

**The Lack of Comparison Data Makes It Difficult To Know
 What Impact the Sanctioning Grid Has Had on Protecting the Public's Safety**

No criteria can be completely effective at protecting the public from being harmed by those on parole. Over the past three years, Kansas parolees have been charged with numerous serious crimes, including murder, rape, and kidnaping. We reviewed the reports of these incidents and concluded that, in seven of those cases, even the strictest criteria couldn't have prevented the crime. More information about our review of these serious offenses is provided in question two.

To try to get some indication of how effective Kansas's system is at protecting the public, we looked at crime rates for Kansas parolees compared to crime rates for parolees in other states. We also gathered information about the number and types of crimes committed by parolees in Kansas and our six sample states for a three-year period. Finally, we surveyed 30 parole officers and spoke with members of the Parole Board to get their opinions about the effectiveness of Kansas' system for sanctioning parole violators. We found the following:

- Crime statistics for our six sample states show that a smaller percentage of Kansas parolees have committed new crimes than parolees in other states. The results of our comparison of the number of parolees in each state who committed new crimes while on parole to the total parole population are shown below:

**Number of Parolees Who Commit New Crimes,
 as a Percent of Total Parole Population**

<u>State</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>Average</u>
Oregon	14%	13%	10%	12%
Missouri	7%	25%	5%	12%
Colorado	7%	12%	12%	10%
Kansas	6%	7%	6%	6%
Iowa	9%	n/a	2%	n/a
Oklahoma	5%	n/a	8%	n/a
South Carolina	4%	3%	n/a	n/a

Source: "Corrections Yearbook" for 1998, 1997, 1996

For fiscal year 1998, Kansas' rate dropped to 5%. We weren't able to get comparable information for the other states.

- Kansas parolees committed more violent crimes than parolees in the two other states for which comparison data were available. Of the other states in our sample, only Oklahoma and Oregon also collect comprehensive data on

the types of crimes parolees commit. As the accompanying table shows, property crimes were most common for parolees in all three states, but Kansas parolees tended to commit more violent crimes than parolees in Oregon and Oklahoma.

Comparison of Types of Crimes Committed by Parolees

<u>Type of Crime (examples)</u>	<u>Kansas</u>	<u>Oklahoma</u>	<u>Oregon</u>
Property (burglary, theft, arson)	40%	45%	46%
Violent (murder, rape, assault)	23%	15%	15%
Drug (possession, sale)	17%	26%	26%
Public Order (DUI, weapons)	14%	11%	10%
Other	6%	3%	3%

Source: LPA survey of other states

Although these statistics suggest that a smaller percentage of Kansas parolees commit crimes and the crimes they commit are more violent than crimes committed by parolees in other states, it's difficult to know whether any of these statistics can be attributable to Kansas' sanctioning grid.

About Half the Parole Officers and Supervisors We Contacted Told Us the Grid Wasn't Adequate To Protect the Public from Harm

Survey responses from 27 parole officers and supervisors were evenly split; half said the grid was adequate, and half said it wasn't. Both groups cited a number of things they saw as problems with the grid and how it was administered. Survey responses from the parole officers and supervisors can be found in Appendix D. Many of the same issues also were brought to our attention by Department officials and Parole Board members we spoke with. The main issues cited were as follows:

- More behaviors need to be defined as violations on the grid. The grid specifies what behaviors are considered violations, such as two or more positive drug screens, or possession of a weapon. Officers wanted more behaviors to qualify as violations. For example, one officer wanted gang involvement or activity to be addressed by the grid. Department officials also noted in a case they reviewed that a parolee's gang involvement made him a higher risk, and recommended the possibility of classifying all gang members as high risk. Another officer thought not staying employed should be a grid violation.
- Some sanctions weren't available in certain areas because of a lack of appropriate facilities or resources. One parole officer commented, "We need

more money for more resources in Southeast Kansas; for example, a structured living [halfway] house and more electronic monitors along with increased surveillance.” Others noted that pre-revocation (a sanction which requires a brief return to prison) generally wasn’t an option because the State’s prisons are too full. A Department official commented that, if moneys were available to improve the system’s “management” of parole violators, it could best be invested in community residential facilities. Parole Board members also mentioned the need to develop more community programs to get parolees involved in activities and away from the people they used to associate with.

- Stricter sanction options are needed. One officer said there was a need for increased sanctions for drug use because *“It is very unnerving to have someone using cocaine who is on parole for aggravated battery or other “violent” crimes. Drug use/abuse needs to be dealt with more aggressively from both a sanctions and treatment perspective.”* As the grid stands, using PCP (angel dust) is the only type of drug use for which revocation is the presumptive sanction. Another parole officer thought the use of crystal methamphetamine should carry the same weight.

Some Parole Board members also suggested the Department’s policy of allowing two positive drug tests before taking disciplinary action was too lenient. They told us that, by the time parolees have been caught taking drugs twice, they’re already back in the thick of things, and the Department ought to try to get them into some type of program the first time they are caught. Board members also mentioned that the short parole revocation time may not be enough of a deterrent in some cases. They told us inmates sometimes would rather go back to prison for 90 days than participate in a treatment program that might last 6 months or longer.

Various other problems parole officers and supervisors mentioned included the need to reduce paperwork, improve/change computer systems, and increase staff and available moneys. Department officials also cited the need for more flexible supervision standards; such as more or fewer visits with an offender at the officer’s discretion.

Conclusion

Even though Kansas’ supervision and sanctioning procedures compared favorably to the other states we reviewed, no procedures or sanctioning criteria can prevent all crimes committed by parolees. Nonetheless, the fact that many of those who work with parolees tell us the system needs to be improved is something that people need to pay serious attention to.

Recommendation

To help ensure that the Department of Corrections' parole grid for sanctioning parolees provides even greater protection for the public, the Department should seriously consider the suggestions offered by parole officers and Parole Board members in this report for improving the grid. As part of its deliberations, the Department also should consider soliciting comments and ideas from others who are involved in the system, or who may have additional suggestions for improvement.

Are Parole Officers Following the Criteria or Guidelines the Department Has Established For Handling Parole Violators?

Department officials routinely review a sample of cases to determine whether parole officers are following procedures and guidelines related to supervising and sanctioning parolees. Statistics gathered from this review showed that for a recent eight-month time period, only a small percentage of parole officers fulfilled 100% of all the Department's supervision requirements. Based on a random sample of parole violator files, we found that when parolees violated the conditions of their supervision, parole officers applied sanctions in accordance with the sanctioning grid for most of the cases we reviewed. When the officers didn't follow the grid, they tended to be more lenient than the grid allowed. When they were too lenient usually it was for drug violations, and in some cases, the same offender was dealt with too leniently more than once. When we reviewed other cases involving parolees charged with committing serious crimes, we found that the grid wasn't followed as closely as it was in the random cases we reviewed. We also noted other problems in these serious cases, such as warrants not being issued as quickly as they should have been, and communication problems. These and related findings are discussed in more detail below.

Department Officials Routinely Conduct Two Types of Reviews To Determine Whether Parole Officers Are Following Department Guidelines And Using the Sanctions Called for by the Grid

The types of reviews they conduct are described below:

- Parole supervisors periodically review a sample of cases handled by parole officers. They are supposed to review 20 cases from each parole officer each year. During this review, supervisors check to see whether parole officers are supervising parolees to the extent called for in Department policies and procedures. Those supervisory requirements include:
 - having the required number of contacts with parolees
 - ensuring that parolees obtain the required number of urinalyses
 - notifying employers of the parolee's criminal history

Parole supervisors also may check to see whether officers follow the sanctioning grid when parolees violate the conditions of their release.

- A Serious Incident Review Board reviews serious incidents involving parolees. The Board generally is made up of five Department employees, including a deputy secretary, the Department attorney, and a parole director or supervisor. Typically, the incidents they review involve parolees being arrested for murder, rape, and other serious crimes. Board members review available documents and reports, and interview staff, offenders, and anyone else with knowledge of the incident. Based on that review, they identify deficiencies in the way a case was handled, and make recommendations for addressing these deficiencies. During the past three years, the Board has conducted 30 reviews of serious incidents involving parolees.

To determine whether parole officers were following the Department's criteria and guidelines for handling parolees, we examined the results of each type of review. We also reviewed a random sample of files for 100 offenders whose parole had been revoked, as well as the files for 28 of the parolees whose cases had been reviewed by the Serious Incident Review Board over the past three years.

The Parole Supervisor Reviews We Examined Showed That Few Parole Officers Are Meeting All the Department's Requirements for Supervising Parolees

We examined the results of parole supervisor reviews for 79 parole officers from both the northern and southern parole regions. Those reviews had been conducted over an 8-month period in fiscal year 1999. (Because of time constraints, we didn't attempt to replicate those reviews to ensure that they were accurate.)

Our examinations showed that parole supervisors were conducting such reviews on a periodic basis, as required. Data taken from those reviews are summarized in the table on the next page.

Making face-to-face contacts with parolees and requiring them to be tested for drugs are two of the main ways parole officers have knowing what parolees are doing, and whether they're complying with the terms of their release from prison. Yet the table shows that few parole officers carried out these tasks 100% of the time. Further, without information about parolees' prior criminal history, employers may not know that they should take certain precautions with those parolees.

An increase in parole officers' responsibilities in recent years could be contributing to their failure to complete all required tasks when supervising parolees. As noted in the overview, over the past decade parole officers' caseloads

**Summary of the Results of Parole Supervisor Reviews of Whether
Parole Officers Are Performing Required Supervisory Tasks,
For a Sample of 79 Parole Officers**

	<u>Officers</u>	<u>% of Total</u>
Completing Field Contacts		
For all parolees supervised by the officer, the total # of contacts required were made:		
100% or more of the time	36	46%
80-99%	28	35%
60-79%	10	13%
Less than 60%	<u>5</u>	<u>6%</u>
Total	79	100%
Requiring Urinalyses		
For all parolees supervised by the officer, the total # of urinalyses required were obtained:		
100% or more of the time	44	56%
80-99%	29	37%
60-79%	3	4%
Less than 60%	<u>2</u>	<u>3%</u>
Total	78 (a)	100%
Notifying Employers of Criminal History		
For all parolees supervised by the officer, the total # of employer contacts required were made:		
100% of the time	16	20%
80-99%	25	32%
60-79%	23	29%
Less than 60%	<u>15</u>	<u>19%</u>
Total	79	100%

Parole officers who met ALL requirements: 9

(a) For one officer, no parolee urinalyses were required.

Source: Monthly summaries of case file reviews obtained from the Department of Corrections

Note: The reader should be aware that the Department compiles this information by the total number of tasks required that were completed—not by the number of parolees for whom each required task actually was carried out. Thus, if an officer supervising three parolees is supposed to visit each one three times a month, having 4 visits with one parolee, 5 visits with the 2nd parolee, and 0 visits with the 3rd parolee would count as 100% compliance for that officer, because 9 visits were required and 9 were carried out. Although this method provides a more limited view of what's really happening, it still provides some indication of how well parole officers are carrying out their required responsibilities for supervising parolees.

have increased from an average of 53 parolees per parole officer to 61. Further, Department records show that parole officers now are handling more high-risk parolees than they did five years ago. (High-risk parolees take more time because of the increased requirements for supervising them.) That information is summarized on the next page.

**Percent of Parolees Assigned to Various Supervision Levels
Fiscal Years 1995 and 1999**

Supervision Level	1995	1999	% Change
High	6%	10%	60%
Close	15%	16%	3%
Intermediate	42%	37%	(11%)
Reduced	32%	24%	(24%)
Unclassified (a)	5%	13%	

(a) This category includes those parolees that hadn't been assigned a risk level as of June 30 each year.

Source: Data provided by the Department

All but one of the parole officers and supervisors we surveyed said their caseloads were too large to handle effectively. Parole officers also complained about the amount of paperwork they have to fill out.

Department officials told us that Kansas parole officers' caseloads are about the same as the national average. However, they acknowledged that the amount of work has increased over the years because of changes in the Department's policies. Paperwork relating to fees and reporting also has increased.

The 1999 Legislature gave the Department nine new parole officer positions. Once those are filled, parole officers' average caseloads will drop to 56 cases per officer. (This figure assumes parole populations will remain stable.) However, that figure still is higher than the caseloads parole officers had in 1989.

**In Our Random Sample of Cases, We Found That
Parole Officers Didn't Follow the
Sanctioning Grid 18% of the Time**

We conducted a random file review of 100 offenders whose parole had been revoked between July and December 1998. For each offender, we reviewed the violations committed, traced the parole officer's supervision of that parolee for a year leading up to the parole revocation, and compared the sanctions imposed with those allowed or required by the grid.

We identified 192 incidents where these 100 parolees had committed class A violations that should have resulted in a sanction being imposed on them. Many of these incidents included more than one violation. For example a parolee may have

failed a drug screen, failed to report to the parole officer, and then absconded. All these would be counted as a single incident and sanctioned at the same time.

Our review showed the following:

- **For 82% of these incidents (involving 77 parolees), parole officers issued sanctions in accordance with the grid.** This means they either imposed a sanction called for under the grid, or deviated from it with the parole director's approval.
- **For 15% of these incidents (involving 20 parolees), the parole officer either imposed no sanctions or was more lenient than the grid called for.** In all, 22 of these incidents related to parolees' substance abuse (two or more positive drug screens), and 10 involved failing to report to the parole officer as required (some had multiple violations). For most of these parolees, this was their first violation.

For 17 of the instances involving substance abuse, parole officers recommended treatment in a substance abuse program. However, referral to such a program isn't considered to be a sanction under the grid unless it's paired with community service, electronic monitoring, increased frequency of drug testing, structured living, jail time, or even parole revocation. Department officials told us referral to inpatient treatment would include structured living, however, in these cases we couldn't find evidence that the parolees were placed in structured living.

For 8 incidents, the same offender was dealt with too lightly more than once. For example, one parolee who'd served time in prison for robbery was dealt with more leniently than the grid called for three times before his parole was revoked. This parolee had a substance abuse violation, but received no sanction. Three months later he again tested positive for drugs. This time the parole officer referred him to outpatient treatment, but didn't issue a sanction. Three months later, he had another substance abuse violation. Again the officer issued no sanction, but recommended that he receive inpatient treatment. A month later the parolee was written up for failing the treatment program, failing to report, and absconding. His parole was finally revoked.

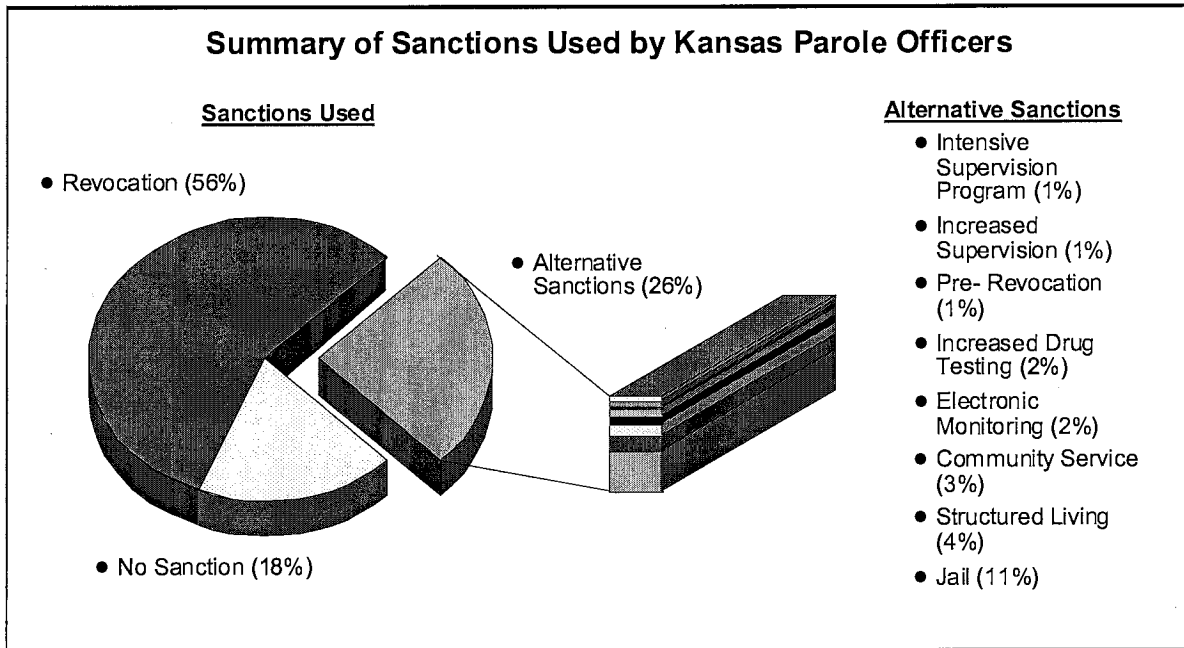
- **For 3% of these incidents (involving 3 parolees), the parole officer was harsher than the grid allows.** In these cases, which included parolees failing to report to the officer, absconding, and testing positive for drugs, the parole officer recommended parole revocation when the grid called for a lesser sanction.

In several cases the officers listed a violation as being "aggravated"—meaning there was something about it that made it more serious and deserving of a harsher sanction. (For example, one case involved a parolee who'd had a history of not reporting to his parole officer on a prior parole in 1993 and 1994. During the

parole period we reviewed, he failed to report and the officer issued a warrant for his arrest and recommended parole revocation.) However, our review showed, and Department officials agreed, that prior parole violations didn't meet the definition of aggravated, and didn't warrant parole revocation.

The most common violations we saw in these 100 cases were substance abuse and failure to report. Some of the sanctions used most frequently, are summarized in the chart below. As that chart shows, referrals to the intensive supervision program, increased supervision, and pre-revocation were the least frequently used sanctions.

As noted on page 8, parole officers told us that they consider the amount of time and paperwork involved when imposing a sanction. Both the intensive supervision program and increased supervision would require more of an officer's time and more paperwork. Further, both officers and Department staff told us that pre-revocation options generally aren't available.



In Our Review of Incidents Involving Parolees Who Were Charged With Serious Crimes While on Parole, We Found That Parole Officers Hadn't Followed the Sanctioning Grid 42% of the Time

We reviewed the records for 28 parolees whose cases had been examined by the Department's Serious Incident Review Board over the past three years. These parolees had been arrested and charged with 22 murders, four rapes, and a variety of other offenses, including kidnaping and arson. Some parolees were charged with multiple serious crimes while on parole.

Six of these parolees hadn't violated any of their parole conditions before committing new crimes. They'd either complied with all their parole requirements or were arrested and charged soon after being released. For example, four days after one parolee was released from prison to begin a year and a half of supervision, he was arrested for kidnaping, sodomy, and battery. In only one of these six cases did the Review Board's report note problems with the way the officer had supervised the parolee.

For the remaining 22 parolees, we identified 43 incidents where they'd violated the conditions of their parole before committing the new crimes, and sanctions should have been imposed on them. Again, many of these incidents included more than one violation.

Our review showed the following:

- **For 58% of these incidents (involving 11 parolees), parole officers imposed sanctions in accordance with the grid.**
- **For 42% of these incidents (involving 11 parolees), the parole officer either imposed no sanctions, or imposed less-severe sanctions than the grid called for.** Most parole violations related to these incidents had to do with a parolee's alcohol and drug use, or failing to report to a parole officer. However, four involved the parolee failing to attend alcohol or sex offender treatment (the latter requires immediate parole revocation), and three involved parolees who'd made threats or committed new crimes.

For 1 of these 11 parolees, if the grid had been followed the violator's parole would have been revoked, and the serious crime might have been avoided. In two other cases revocation was an option, but not required. These examples are discussed in the box on the next page.

For the 8 other parolees, the violations they committed wouldn't have resulted in parole revocation. Because they still would have been out of prison, it's impossible to know whether their subsequent crimes would have been committed if the appropriate sanctions had been imposed. Several of these cases involved drug and alcohol violations.

In one case, for example, a parolee was released from prison in December 1996. When he tested positive for drugs in March 1997, he received only a verbal reprimand. When he admitted drug usage in May, nothing happened. (The appropriate sanctions for this violation would have included structured living, electronic monitoring, or more frequent drug testing.) This parolee was arrested for murder two weeks later.

Examples of Cases In Which Revocation Was Available And May Have Prevented a Serious Crime

In one case parole revocation was required but not used.

A parolee had been released in November 1998 after serving time for sexual battery, burglary, and attempted theft. (He'd had his parole revoked 7 times in less than 5 years, and had a history of having his parole revoked shortly after each release. One of his prior parole officers had written that this offender had made it clear he had no intention of complying with the conditions of his parole.) In December 1998 he missed sex-offender treatment and failed to report to his parole officer. These violations warrant immediate revocation. A warrant was issued for his arrest. When he was arrested January 11, he admitted using cocaine and alcohol. After discussing the case with his supervisor, the parole officer directed the parolee to complete inpatient substance abuse treatment. He ran away from the parole office January 19, the day he was supposed to enter treatment, and another arrest warrant was issued. When he was arrested on February 1, he was charged with murdering someone 3 days earlier.

In two cases parole revocation was optional but not used.

One case involved a parolee who'd served time for rape. After he missed the sex-offender class, however, the parole officer gave him a verbal reprimand only. Appropriate sancations according to the grid in effect at the time included revocation, intensive supervision, electronic monitoring or five days in jail. Within a week, the parolee was arrested for taking indecent liberties with a child. This time the parole officer sought permission from his supervisor to begin parole revocation proceedings, but the supervisor denied his request. Instead, the parolee was placed under house arrest for 45 days. He was arrested and charged with sexual assault about three months later.

The third case involved a parolee who'd been arrested for selling cocaine. Because he'd originally been convicted for a drug offense, and had recently committed several substance abuse violations (for which he'd only received reprimands), his parole could have been revoked. But because he was within two months of being discharged from supervision, the parole officer and supervisor agreed to hold off on any sanctions, pending a drug test. If that test came back positive, they planned to send him to pre-revocation until the end of his sentence. The drug test came back negative, and no sanctions were imposed. Less than a month later, the parolee was arrested for arson and aggravated battery.

Both our reviews and the Board's reviews identified other shortcomings in the way some parole officers handled these parolees. These shortcomings fell into the following six categories:

- **For 22 parolees, parole officers hadn't carried out all their supervisory responsibilities.** This included making all the necessary contacts with the offender, administering the proper number of urinalyses, notifying all

necessary third parties, and remaining aware of all contacts the parolee had with law enforcement officials. (These findings mirror what we'd seen in reviewing the results of parole supervisor reviews.)

In one case, the parolee missed the intake appointment and the parole officer didn't notice. The officer also didn't thoroughly review jail sheets which showed that the parolee had been arrested for a DUI. The parole officer hadn't prepared a supervision plan, nor did he conduct a home visit within the required time. This parolee was subsequently arrested for murder.

- **Parole officers and supervisors don't always issue arrest warrants quickly when parolees fail to report or abscond and they can't be located.** The decision to issue a warrant for a parolee's arrest is made jointly by the officer and supervisor. We identified six incidents in which it took anywhere from 14 to 46 days for an arrest warrant to be issued after the parolee had failed to report to the parole officer and the parole officer could no longer account for his or her whereabouts.

Two of the six cases (17 days and 46 days) occurred in a time period covered by an old Department policy that allowed up to 45 days to declare a parolee and absconder and issue a warrant. The other four cases (14-30 days each) occurred under current Department policy which doesn't specifically state when a Secretary's warrant should be issued. We think this is too long because during this time, parolees could become involved in other criminal activities.

Department officials told us their first course of action is to issue an arrest and detain warrant which is good for 30 days. That warrant only notifies local law enforcement. If the offender can't be located within a few days, they then seek a Secretary's warrant which is entered into the National Crime Information Center's (NCIC) computer system. They told us they wait to issue a Secretary's warrant so they don't needlessly enter warrants in the NCIC system that will need to be removed within a few days if the offender is quickly located.

- **In 13 cases, there were communication problems between different offices and officers.** In several cases, parole officers hadn't received all pertinent case materials in a timely manner. These materials include parole release certificates, which outline all the Parole Board's supervision conditions, and entire case files containing the parolee's prior criminal history. We also saw several cases where officers failed to communicate information regarding the parolee to other parole officers. In the most significant case, a special enforcement officer didn't inform a parole offic-

er that his parolee was a suspect in a murder investigation, even though his work space was right across the hall. Many parole officers also hadn't documented all their supervision activities. Some of those officers subsequently left the Department, which meant their replacements didn't have good information about what the parolee had done, and how well he'd met the conditions of his parole.

In one case, for example, the previous officer hadn't recorded any information about any contacts he'd had with the parolee from January through October 1997. (This officer had been reprimanded in the past for keeping incomplete files about the parolees he supervised.) In another case, a parole officer left behind no documentation of his supervision activities related to the parolee.

- **In a few cases, the parole officer was slow to enforce some of the special conditions set forth by the Parole Board, or didn't enforce them at all.** For example, the Board sometimes requires the parolees to be evaluated for substance abuse treatment, and to comply with the recommendations of that evaluation. In five cases we reviewed, the parole officer didn't enforce conditions imposed by the Parole Board. In one case, for example, a parolee with a history of running off from supervision was supposed to be monitored by an electronic monitoring device, but never was.
- **In two cases, parolees essentially fell through the cracks for a while because of confusion over who would supervise them.** In both cases, no one was keeping track of the parolee and his or her activities.

In one case, there was confusion over which parole office should supervise a parolee after he returned to Kansas City from Topeka to live in a special halfway house. His original parole officer mistakenly thought he was being supervised by a parole officer who specialized in supervising parolees in a related program. This parolee went unsupervised from mid-November to mid-December.

In another case, a parolee wasn't supervised for three months after receiving permission to move to Wichita. He'd been released from prison about a year earlier after serving time for robbery, kidnaping, and battery. He was assigned to one parole officer in Wichita, but was given an appointment with a different officer. No one could remember if he ever showed up for his appointment. Because of the confusion, no one supervised him from about mid-April to mid-July. Compounding things, the parolee's case file wasn't sent to Wichita for almost two months.

Neither parolee committed their serious offense during these periods where they were not supervised.

- **In some cases, the parole officer didn't properly assess the parolee's risk level or substance abuse history.** These assessments determine how

closely the parolee will be monitored, and whether he or she will be required to take drug tests on a regular basis.

In general, the Serious Incident Review Board identified the same deficiencies we noted in the files, and made reasonable recommendations for addressing them. For example, for those cases where the parole officer hadn't followed the Department's policies on supervising parolees, the Board instructed the parole supervisor to review those policies with the officer. In two cases, the Board determined that all parole officers should review a policy that hadn't been followed.

The Board also might find that the Department's policies or procedures needed to be re-evaluated. In one case, for example, there were concerns about how long it took the parole office to be notified that a parolee had left the area while being monitored by an electronic device. The Board recommended that a special work group be assembled to review electronic monitoring and focus on the issue of notification.

The only major exception we found involved the two parolees described earlier who'd missed their sex-offender treatment classes, but who didn't have their parole revoked for these violations. It didn't appear to us that the Board had adequately addressed these situations. In one case, its findings didn't address the fact that the offender had missed the class or that the parole officer hadn't used the appropriate sanction. In the other case, the Board acknowledged that the parole supervisor had applied the grid incorrectly, and that parole revocation, not drug treatment, should have been the presumptive sanction. However, the Board indicated this deviation might have been acceptable if it had been presented to and approved by a parole director.

Conclusion

Parole officers face tough decisions every day about how to handle their average caseload of more than 60 parolees. One of the best things they can do is to know what those parolees are doing, and to impose appropriate sanctions on parole violators to try to control their behavior. However, this audit has shown that parole officers don't always keep in contact with the parolees assigned to them the way they are supposed to, and sometimes are too lenient in imposing sanctions. Addressing these shortcomings will be an important step toward improving the parole system's ability to protect the public.

Recommendations

1. To ensure that parole officers are consistently applying the Condition Violation Alternative Grid, the Department of Corrections should continue to provide training on the grid, and should make a special effort to ensure that officers understand what constitutes an aggravated offense.
2. To ensure that parole officers stay in contact with parolees to the extent required, Department officials should do the following:
 - a. gather meaningful information during random supervisory reviews of parolee files that identifies which parole officers aren't accomplishing routine supervision tasks
 - b. work with parole officers to identify what factors are preventing them from being able to accomplish all the routine work tasks they are supposed to complete
3. To ensure that parolees who abscond from supervision are apprehended as quickly as possible, Department officials should monitor the timeliness of issuing warrants as part of their reviews of parolee files, and should take action when needed to improve the timeliness of warrants issued.
4. The Department should work with the Governor, the Legislature, and people within the communities to try to ensure that all sanction options are available to parole officers, including the more restrictive options of pre-revocation and halfway houses.



APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on March 16, 1999. The audit was requested by Senators Umbarger and Emert.

SCOPE STATEMENT

Assessing Staff Safety and Salary Issues and Criteria for Dealing with Parole Violators Within the Department of Corrections

The Kansas Governmental Operations Accountability Law (K-GOAL) requires Legislative Post Audit to conduct a performance audit of specified State agencies each year for the next several years. The purpose of the K-GOAL audits, according to the Act, is to "ensure accomplishment of the declared purpose of State government by periodically reviewing and evaluating the operations of selected State agencies, determining the necessity, propriety and legality of the operations reviewed and evaluated, identifying inefficiency and ineffectiveness, and taking action to retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations."

For 1999, the Division is required to audit the Department of Corrections. Recently legislators have expressed concerns about how the Department covers staff shortages at prison facilities, the reliability of communications equipment for prison staff, and problems with hiring and retaining correctional officers. Concerns also have been expressed about the Department's oversight of parolees. Therefore, the Legislative Post Audit Committee has chosen to focus the K-GOAL audit of the Department on staff safety and salary issues, and on the Department's actions to ensure that parole violators are dealt with appropriately.

The audit addresses the following questions.

- 1. How does the Department of Corrections cover staffing shortages within shifts, and does this practice jeopardize the safety of correctional employees?** We'd interview Department and facility officials and review applicable records to determine what the Department's practices are in this area, and whether those practices vary by facility. We'd also determine how the Department's practices compare with a number of similar states. For a sample of correctional facilities, we'd review and analyze records on staffing levels (planned and actual), assaults on staff, and other relevant information to assess how often correctional officers are moved around on shifts to make up for staffing shortfalls, how well that practice appears to be working, and whether employees have been placed in jeopardy because of this practice. In addition, we'd survey staff members about their experiences and perceptions relating to this staffing practice, and would perform other work as needed.
- 2. Is the Department's current communications equipment adequate to protect the safety of correctional employees?** We'd interview Department and facility staff and review relevant memos, correspondence, or other internal records to determine what types of equipment employees have, how old it is, whether or to what extent that equipment has failed, what plans the Department has, if any, for updating that equipment, and the like. We'd also review and analyze logs or other records as needed to identify situations where communications equipment contributed to employees getting hurt or being unsafe. As part of our survey of staff, we'd ask about their experiences and perceptions relating to the communications equipment they have available. We'd perform other work as needed.

(over)

3. **How do correctional salaries, benefits, and turnover rates compare with other states and nearby federal facilities, and what impact are they having on Kansas' correctional facilities?** We'd review and analyze salary, benefit, and turnover information for Kansas and a sample of surrounding states and nearby federal facilities to determine how Kansas compares. We'd also review and analyze any other readily available information, such as salary and benefit comparisons or staff surveys conducted by the Department, national associations, or the Division of Personnel Services. To assess the impact of any hiring or turnover problems, we'd interview Department and facility officials and review relevant records to determine such things as staff vacancy rates, staffing assignments, staff experience levels, safety-related issues, and the like. As part of our survey of staff, we'd ask about their experiences and perceptions relating to salary, turnover, and related safety issues, and would perform other work as needed.
4. **What criteria has the Department of Corrections established for parole officers to use in recommending sanctions for parole violators, and do those criteria appear to be adequate to protect the public's safety?** To identify these criteria, we'd interview Department officials and review the Department's policies and procedures regarding the parole process and parole revocation. In assessing their adequacy, we'd compare these criteria against those adopted by other states or recommended by correctional organizations, and discuss them with Department officials, parole officers, local law enforcement officials, and other interested parties. We'd perform other test work as needed.
5. **Are parole officers following the criteria or guidelines the Department has established?** To answer this question, we'd review a sample of files for parole violators. For any cases where the established criteria or guidelines weren't followed, we'd interview Department officials and parole. We'd also interview or survey a sample of parole officers across the State to identify their normal practices in this area, and to get their opinions about any barriers they see to following the established criteria or guidelines, and any recommendations they have for improving the process or better protecting the public's safety. We'd perform other test work as needed.

Estimated time to complete: Two audit teams, 8-12 weeks

APPENDIX B

Two Ways Offenders in Kansas Are Released From Prison

The Sentencing Guidelines Act went into effect in July of 1993. The Act established "determinate" sentences for felony offenses in Kansas. One aim of the Act was to decrease the use of parole as a means of shortening prison terms for convicted felons. As a result, the Act has created two types of offender supervision. For the purposes of this audit, offenders under both types of supervision are referred to as "parolees."

Traditional Parole

Offenders convicted of a felony before July 1, 1993, as well as any offenders convicted of murder or treason, are covered by the old sentencing system. These offenders may have their prison terms reduced through parole.

- The Kansas Parole Board determines if an offender will be paroled before his/her sentence expires.
- Offenders are eligible for a parole hearing after they've served their minimum sentence (less any good-time credits).
- Good-time credits may reduce the sentence by as much as 50%.
- There's no guarantee offenders will be released before their sentence expires.
- They are automatically released when their maximum sentence (less good-time credits) expires.
- They must comply with conditions imposed by the Kansas Parole Board.
- They are supervised by parole officers who monitor their compliance with the Board's conditions.
- If their parole is revoked, they're held in prison until the Parole Board grants them parole again, or until they reach their conditional release date.
- They remain under supervision until their original maximum sentence expires, or until an early discharge is granted by the Parole Board.

Post-Release Supervision

Offenders convicted of a felony on or after July 1, 1993, are sentenced under the Sentencing Guidelines Act.

- These offenders are sentenced to a predetermined prison term and a period of post-release supervision.
- They are automatically released from prison when they serve the prison portion of their sentence (less any good-time credits)
- Good-time credits may reduce the prison portion of the sentence by as much as 15%. Any time saved on the prison term is added to the supervision term.
- These offenders technically aren't "parolees." They have completed the prison portion of their sentence.
- They must comply with conditions imposed by the Kansas Parole Board.
- They are supervised by parole officers who monitor their compliance with the Board's conditions.
- If their parole is revoked, they return to prison for 180 days (90 days with good behavior).
- Post-Release Supervision lasts until they have completed the supervision portion (including good time) of their sentence.
- For parolees sentenced after April 20, 1995, up to one year of post-release supervision may be eliminated through good time earned after release.

Example: An offender was convicted of aggravated robbery in 1992. He was sentenced to 10 to 20 years in prison. If he earns all of his good time credits, he will be eligible for his first parole hearing in 1997. If he isn't paroled, he will automatically be released after 10 years (his maximum date less good-time). If he is granted parole, he will remain under supervision until 2012, or until granted an early discharge.

Example: An offender is convicted of aggravated robbery in 1999. He is sentenced to 15 years in prison with an additional three years of post-release supervision. If he earns all of his good time credits, he will automatically be released in 12¾ years. He will remain under supervision until the year 2017 (2016 if he earns good time credits while under supervision).

APPENDIX C

Condition Violation Alternative Grid

The Kansas Department of Corrections uses the grid to determine appropriate sanctions for all persons under their supervision, including those on parole, post-release supervision, probation from other states, and conditional release. The grid lists sanctions relative to the type of violation and the offender's supervision level, with the sanctions becoming more restrictive as the violation increases in severity.

CONDITION VIOLATION ALTERNATIVE GRID

	A	B	C	D	E
Category:	--Possession of weapon --Confirmed PCP usage --Resist, assault, batter, elude or escape law enforcement or special enforcement officer --Fail to attend SOTP --New felony conviction --Threats of violence or misdemeanor assault conviction with prior conviction or history of violence	Threats of violence or misdemeanor conviction for assaultive behavior with no prior history	Absconding upon release	Special condition or alcohol-drug misdemeanor	Three or more violations or non-assaultive misdemeanor
High Supervision Level					
(1) Aggravated:	--Revocation	--Revocation	--Revocation	--Revocation	--Revocation
----- ALL OTHER SANCTIONS AVAILABLE THROUGH DEPARTURE -----					
(2) Regular:	--Revocation	--Up to 20 days in jail --Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Up to 15 days in jail --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Intensive Supervision Program --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living --Community Service
Close Supervision Level					
(3) Aggravated:	--Revocation	--Revocation <i>All Other Sanctions Available Through Departure</i>	--Revocation <i>All Other Sanctions Available Through Departure</i>	--Revocation --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living	--Revocation --Intensive Supervision Program --Pre-revocation --Electronic Monitoring/ House Arrest --Structured Living --Community Service
(4) Regular:	--Revocation	--Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Up to 10 days in jail	--Pre-revocation --Intensive Supervision Program --Structured Living --Electronic Monitoring/ House Arrest	--Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Up to 10 days in jail --Increased urinalyses --Structured Living --Community Service	--Pre-revocation --Community Service --Electronic Monitoring/ House Arrest --Intensive Supervision Program --Structured Living
Intermediate Supervision Level					
(5) Aggravated:	--Revocation	--Revocation <i>All Other Sanctions Available Through Departure</i>	--Revocation <i>All Other Sanctions Available Through Departure</i>	--Revocation --Pre-revocation --Structured Living --Electronic Monitoring/ House Arrest --Up to 10 days in jail --Increased urinalyses --Community Service	--Revocation --Pre-revocation --Community Service --Electronic Monitoring/ House Arrest --Intensive Supervision Program --Structured Living
(6) Regular:	--Revocation	--Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living --Up to 5 days in jail	--Intensive Supervision Program --Electronic Monitoring/ House Arrest --Structured Living	--Pre-revocation --Intensive Supervision Program --Electronic Monitoring/ House Arrest --Community Service --Increased urinalyses --Structured Living	--Community Service --Electronic Monitoring/ House Arrest --Intensive Supervision Program --Structured Living
Reduced Supervision Level					
(7)	----- Increase Level of Supervision and Sanction Accordingly -----				

F	G	H	I
Two or more positive urinalyses	Failure to report to parole officer (two or more consecutive times)	Travel outside district	Failure to pay

Aggravated: Any circumstances regarding the violation which is consistent with previous convicted criminal behavior, failure to complete an imposed sanction during current supervision period, on absconder status for (60) days or more since the issuance of a blue warrant, absconding more than once during current supervision period, or failure to complete in-patient treatment.

--Revocation	--Revocation	--Revocation	--Revocation
----- ALL OTHER SANCTIONS AVAILABLE THROUGH DEPARTURE -----			
--Up to 10 days in jail	--Pre-revocation	--Intensive Supervision Program	--Community Service
--Intensive Supervision Program	--Up to 10 days in jail	--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest
--Electronic Monitoring/ House Arrest	--Intensive Supervision Program	--Travel Restrictions	--Structured Living
--Structured Living	--Electronic Monitoring/ House Arrest	--Community Service	
--Increased urinalyses	--Structured Living		
--Community Service	--Community Service		

--Revocation	--Revocation	--Revocation	--Revocation
--Electronic Monitoring/ House Arrest	--Pre-revocation	--Intensive Supervision Program	--Community Service
--Intensive Supervision Program	--Intensive Supervision Program	--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest
--Structured Living	--Electronic Monitoring/ House Arrest	--Travel Restrictions	--Structured Living
--Increased urinalyses	--Increased urinalyses	--Community Service	
--Community Service	--Structured Living		
	--Community Service		
--Up to 5 days in jail	--Pre-revocation	--Community Service	--Community Service
--Intensive Supervision Program	--Intensive Supervision Program	--Intensive Supervision Program	--Electronic Monitoring/ House Arrest
--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest	--Structured Living
--Structured Living	--Up to 5 days in jail	--Travel Restrictions	
--Increased urinalyses	--Increased urinalyses		
--Community Service	--Structured Living		
	--Community Service		

--Revocation	--Revocation	--Revocation	--Revocation
--Intensive Supervision Program	--Intensive Supervision Program	--Community Service	--Community Service
--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest	--Intensive Supervision Program	--Electronic Monitoring/ House Arrest
--Increased urinalyses	--Pre-revocation	--Electronic Monitoring/ House Arrest	
--Structured Living	--Increased urinalyses	--Travel Restrictions	
--Community Service	--Community Service		
--Intensive Supervision Program	--Pre-revocation	--Community Service	--Community Service
--Electronic Monitoring/ House Arrest	--Intensive Supervision Program	--Intensive Supervision Program	--Electronic Monitoring/ House Arrest
--Increased urinalyses	--Electronic Monitoring/ House Arrest	--Electronic Monitoring/ House Arrest	
--Structured Living	--Community Service	--Travel Restrictions	
--Community Service	--Increased urinalyses		

----- Increase Level of Supervision and Sanction Accordingly -----

APPENDIX D

Summary of Survey Responses From Parole Officers and Supervisors

We surveyed 30 parole officers and supervisors across the State. We received responses from 28 for a response rate of 93%.

The survey was designed to obtain parole officer's and supervisor's opinions about the use of the Condition Violation Alternative Grid, and whether the Grid is adequate to protect the public safety. We also asked their opinions about the level of their current caseloads. Finally, we asked for suggestions to improve the Grid or its use. A summary of the survey responses is included in this appendix.

Survey of Parole Officers and Supervisors

The Legislative Post Audit Committee has directed the Legislative Division of Post Audit to conduct a performance audit which reviews the Department of Correction's criteria for dealing with parole/post-release supervision violators. As part of this audit, we want to learn what parole officers and supervisors think about the sanction and revocation process. To help gather this information, we are faxing a survey to a sample of parole officers and supervisors across the State.

We would appreciate it if you would take time to answer the following questions. The returned surveys will be included in the audit working papers which will become public once the audit is completed. Please fax the survey back to us as soon as possible. If you have questions, please contact Chris Clarke or LeAnn Schmitt at Legislative Post Audit, 800 S.W. Jackson, Suite 1200, Topeka, KS 66612, or call (785)296-3792. Our fax number is (785)296-4482.

Total Responses: 28 (4 parole supervisors, 24 parole officers) Response Rate: 93%

For each question below the total number of responses and corresponding percentage for each answer is given.

1. Do you think the Condition Violation Alternative Grid provides enough guidance on what sanctions to impose on persons under your supervision when they violate their conditions of release?
27 responses

67% Yes 33% No

1a. If you said "no", what changes would you suggest making to the Grid to improve it?
12 responses

Most common answers:

- *Need more resources/facilities to provide the sanctions*
- *Grid needs to address more violations*
- *Grid needs to list more sanction options*

2. Do you think that using the Grid has resulted in more uniformity in dealing with persons who violate the conditions of their release? *28 responses*

75% Yes 25% No

3. In your opinion, have you been adequately trained on how to properly administer sanctions in accordance with what is called for in the Grid? *27 responses*

100% Yes 0% No

4. In your opinion, are the sanctions called for in the Grid adequate to ensure that the general public is protected from harm caused by people on post-release supervision/parole? 27 responses

48% Yes 52% No

5. Based on what the people in central office tell us, the parole supervisors are supposed to review 20 cases per officer, per year. In you experience, is this happening? 27 responses

96% Yes 3% No

5a. Do you feel that you get enough feedback from your supervisor about the decisions you are making regarding offenders you are supervising? 27 responses

78% Yes 7% No 15% N/A

6. When the Grid allows you the flexibility in deciding what type of sanction to impose, what would you say are the **three most important** things you consider when deciding which sanctions to pick? 27 responses

Most common answers:

- *Offender's history, behavior on parole, type of violation*
- *Effectiveness and appropriateness of sanction*
- *Public safety*

7. About how many people do you have in your caseload currently? 23 responses

Average Caseload: 70

8. Do feel that you current caseload is 24 responses

96% too large to effectively manage

4% about right

0% smaller than you could handle

9. If you could change one thing about the system for supervising people on parole or post-release supervision, what would that be? 28 responses

Most common answers:

- *Smaller caseloads*
- *Longer violation sentence(currently 90 days)/stricter sanctions*
- *More/better resources/services/sanctions*

APPENDIX E

Agency Response

We sent a draft copy of this report to the Department of Corrections on August 6, 1999, and received the Department's written response on August 18, 1999.

Based on our review of the Department's response, we made a number of minor clarifications to the draft report. However, those changes didn't affect our findings or recommendations.

STATE OF KANSAS



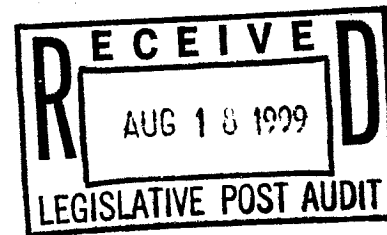
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Bill Graves
Governor

Charles E. Simmons
Secretary

August 18, 1999

Ms. Barbara J. Hinton, Legislative Post Auditor
Legislative Division of Post Audit
Mercantile Bank Tower
800 SW Jackson Street
Suite 1200
Topeka, Kansas 66612-2212



Dear Ms. Hinton:

Thank you for the opportunity to review and comment on the draft report prepared by your office regarding Kansas Department of Corrections' policies and practices relative to revocation of offenders who violate their conditions of parole or postrelease supervision. I have reviewed the draft carefully and have also received input from several senior KDOC managers responsible for administration of parole services. The following is my response to the report's findings and recommendations.

The department has, over the past few years, been aggressive in addressing improvements in its management of offenders, including those who violate conditions of parole or postrelease supervision. In October 1995, the department implemented use of a Condition Violation Alternative Grid. The grid was developed by a committee composed primarily of parole managers and line staff and is similar in concept to sentencing guidelines grids. Its purpose is to give guidance to parole staff and provide for systemwide consistency in the department's reaction to condition violations—i.e., by identifying similar responses to similar violations committed by similar offenders. The grid addresses Category A violations, which are the more serious ones. It is an important piece of our overall policy that every condition violation will get a response from the department. The grid is reviewed annually, and several revisions have been made since it was first implemented. As noted in the audit report, Kansas is one of only a handful of states which have adopted a formal mechanism to help guide revocation decision-making.

Other major actions taken during the past few years include the following:

- In September 1996, the department implemented a policy whereby all serious incidents involving parolees under KDOC supervision are formally reviewed by a Serious Incident Review Board. The purpose of the review is to document and evaluate factual information surrounding the incident to determine if: (1) departmental policies and procedures were followed; (2) revisions to policies or procedures are warranted; and (3) disciplinary action is warranted against departmental employees.
- To improve the department's leverage in supervising the postrelease supervision population (i.e. offenders sentenced under guidelines), in 1995 the department requested and supported legislation—which was enacted—to increase the maximum prison sentence for condition violators from 90 days to 180 days. At the department's request, legislation also was enacted which extends the maximum period of postrelease supervision by 12 months (to either 24 or 36 months, depending on the severity level), but allows offenders to earn this time back through good time while on postrelease supervision.
- The department has revised its policy on case file reviews three times in recent years. In September 1993, a policy was adopted specifying that parole supervisors must review at least five case files per year for each officer to evaluate officer compliance with departmental supervision requirements. The minimum number of case files to be reviewed was increased to 10 in April 1996 and was increased again to 20 in April 1997.
- The number of field contacts and drug tests of offenders under parole services supervision has increased each year for the past four years, as indicated in the following table:

Fiscal Year	Drug Tests <i>Avg/Month</i> (number of specimens)	Field Contacts		
		<i>Avg/Month</i>		Total
		High/Close	Intermediate	
1999	2,582	1,466	1,425	2,891
1998	2,191	1,417	1,368	2,785
1997	1,971	1,219	1,302	2,521
1996	1,515	1,012	958	1,970
1995	1,240	774	NA	NA

- The department also proposed the addition of 9 parole officers for FY 2000, all of which were recommended by the Governor and authorized by the 1999 Legislature. These officers will allow for lower caseloads and more specialized supervision.

Additionally, Parole Services has continuously maintained accreditation by the American Correctional Association since 1983, which means that the department has consistently met nationally-established professional standards for delivery of parole supervision services.

Comments on specific sections of the report are provided below:

- Page 6** *Second paragraph...*the statement is made that "it's difficult to know what impact Kansas' grid actually has had." In FY 1996 after implementation of the grid, the condition violator return rate decreased to an average of 118 per month. The grid was modified in FY 1997 and since that time, the condition violator return rate has increased each fiscal year until, at the conclusion of FY 1999, it had risen to nearly 200 per month on average.
- Page 13** *Last full paragraph...*one of the KQM teams established in the department has been working on issues related to offender gang-related activity. The team report and recommendations will be presented to the department's System Management Team this fall. Team recommendations are expected to address certain offender behaviors while on parole.
- Page 14** *Quotation at top of page...*the department has increased the number of available electronic monitoring devices by 30 units in the last 90 days. In southeast Kansas, the number of devices increased from two units to seven units during this time period.
- Page 14** *Third paragraph...*the Parole Board member concerns described in this paragraph are not an accurate depiction of the departmental response to initial drug violations. It is departmental policy that there be a response to every violation of a parole or postrelease supervision condition. An initial drug violation (other than for PCP) is not classified as Category A violation, and is therefore not covered in the sanctions grid. Although not included in the sanctions grid, Category B violations still require a response. Departmental policy requires that an officer respond to the first positive drug test with a reprimand, travel restrictions, increased drug testing, or other special conditions or restrictions. In addition, parole officers can—and frequently do—require a substance abuse evaluation after an offender's first positive drug test to determine the need for appropriate treatment.

To clarify further, the department does not consider substance abuse treatment to be a punishment (although some offenders may view it that way) and it is therefore not listed as a sanction on the grid. Substance abuse treatment programs are viewed as a means of addressing chemical dependency, not as a penalty.

Page 14 *Conclusion....*The audit report noted that the department's supervision and sanctioning procedures compared favorably to the other states reviewed, but that some involved in the supervision of offenders believe that the system needs to be improved.

The Condition Violation Alternative Grid has been in place since October 1995. We would note that in April 1996, the department reactivated the original Graduated Sanctions Committee to review the effectiveness of the grid. New committee members were added, including the Parole Board chairperson and a deputy warden. Seventeen recommendations for improvement were generated and the grid was modified accordingly in October 1996. As with all departmental policies, staff input regarding changes are welcome and encouraged. The policy undergoes a formal annual review, but modifications can be considered at any time.

Page 15 *Recommendation....*Parole staff and members of the Kansas Parole Board are always encouraged to offer suggestions for improving department policies and practices. Modifications regarding the Condition Violation Alternative Grid have been made since it was implemented in October 1995. We are open to making additional modifications which will improve the grid. Although all department policies are reviewed on an annual basis, we will over the next 90 days complete a special review of this policy, specifically including the solicitation and consideration of staff and Parole Board input. Any revisions to the policy will be implemented by December 1, 1999.

Page 16-18 *Case File Reviews by Supervisors (re supervision standards)*

Fulfilling 100% of all of the department's supervision requirements is a challenge for parole officers for the following reasons:

- Uncooperative offender population – Completion of all contacts and drug screens is not always possible when an offender misses appointments.
- Relief factor – When a parole officer is involved in training, out sick or away on vacation, other staff attempt to continue to meet requirements. However, current staffing levels do not include a relief factor to routinely meet such contingencies.¹

¹ To illustrate the points regarding staffing, 15% of the southern region case files for the eight-month period involved cases supervised in offices where understaffing was a significant issue. Independence had only one of two officers for eight months of FY 1999 because of extended illness. The Hutchinson office had one of four officers gone for several months in FY 1999, also because of extended illness. The only officer assigned to the Dodge City office was on maternity leave for nearly two months during the eight months of case file reviews. Other officers worked with the offenders to provide coverage, meaning that some of them were supervising 70-100+ cases during this timeframe. In those situations, staff are instructed to focus priority on higher risk cases if there is not enough time to cover all requirements.

- Turnover – Parole Services has experienced relatively high turnover in the past two fiscal years. Although vacancies are filled as rapidly as possible, replacements are not fully functional until they complete basic training. Until that occurs, other staff attempt to continue to meet requirements.
- Workload – During the past four years, the number of field contacts made and the volume of drug testing have grown significantly (*see table on page 2*). Also, to meet increasing demands for information and evaluation of the effectiveness of departmental activities, the department has increased the volume of data collected to document a wide range of offender-related activity.

When a case file review is done, the supervisor is looking at very specific numbers and timeframes as they pertain to policy. If the number of contacts, drug tests, and employer notifications were not made in exactly the manner prescribed by policy, the file would be recorded as non-compliant in the area of deficiency. This does not necessarily reflect neglect of the task. As an example, documentation of employer notification provides not only that the employer be notified, but that the employer acknowledge the notification in writing. If the acknowledgement is not filed within the 30-day window prescribed by policy, the file would be marked as non-compliant—even if the employer received initial notification within the first week.

Page 20

First italic paragraph... regarding the 17 substance abuse instances. In those cases where referrals were made to substance abuse in-patient treatment (as opposed to outpatient treatment), this would have included 90 days of structured living as an embedded part of the treatment. Officers often do not note this component separately as a sanction, but in fact structured living is considered a sanction. We also would note that, while we do not consider substance abuse treatment a punishment and therefore do not define it as a sanction, many other states do. Moreover, we believe the important point is that referral to treatment clearly constitutes a positive, appropriate response to a substance abuse violation.

Page 21

Graphic box on use of sanctions... Intensive supervision programs are offered via contracts with community corrections agencies. Not all of these agencies have agreed to enter into contracts so this service is not available in all areas of the state. In most of the locations where an agreement is in effect, the offender must be approved or accepted by the community corrections agency. Many cases were referred but rejected by the contracting agency. Since this program is often six months or more in length, many offenders view a return to prison for 90 days as preferable and refuse to participate.

The increased supervision option is part of the sanction grid only as it applies to those offenders on reduced supervision who report through the automated

phone-in system. If they violate, they are returned to a higher level of supervision if they are not revoked. At any one time, only about 450 offenders would be eligible for this sanction. Since these offenders are the most compliant of any group, the number of violations committed by them is not large.

Page 22 *Case description, bottom of the page....*a letter of counseling was issued to the parole officer for failing to staff this case with the parole supervisor upon the second substance abuse violation. The officer is no longer employed by the department.

Page 24 *Third paragraph....*regarding issuance of warrants. The practice is to issue the warrant as soon as possible, but prior to issuance we also attempt to investigate leads as to the offender's whereabouts. In many cases, the officer issues an Arrest and Detain warrant and lodges this with local authorities until a department warrant can be issued. Issuance of a warrant does not guarantee that an arrest will be made.

To put the six incidents cited in the report into context, the department issued over 2,200 NCIC warrants during FY 1999.

Page 24 *Last paragraph...regarding communication problems.* The report cites problems with timely transfer of case file material to parole officers. Over a year ago, the department established a KQM team to examine ways to improve the flow of information between facilities and parole services staff. In response to this team's report, in July 1999 I announced establishment of a new position, Director of Release Planning, who will be responsible for coordinating a number of functions related to offender transition from incarceration to the community. This action, and implementation of other recommendations made by the KQM team, is intended to improve and streamline the procedures involved in transitioning an offender from facility supervision to field supervision. One of the major areas of expected improvement is in the transfer of information between facilities and parole services.

This paragraph also cites a particular case, indicating that a special enforcement officer (SEO) did not notify the parole officer that one of the officer's offenders was a suspect in a homicide case. Because the parole officer was not in the office when the SEO learned that the offender was a suspect, the SEO notified the regional parole director, the parole supervisor, and the parole officer's immediate supervisor.

Page 26 *Conclusion....*Over the past four years, parole officers have significantly increased both the number of field contacts they make with offenders and the number of specimens they obtain for drug testing. Although 100% compliance with supervision standards should always be the goal, the generally

uncooperative nature of the offender population, the absence of relief staffing, and relatively high parole officer turnover rates make it a difficult goal to achieve. Another way to look at the results is that four out of five parole officers make more than 80% of the required contacts and nine out of ten perform more than 80% of the required drug tests. Employer notification is an area in which improvement is an achievable goal.

The statement is made that parole officers are sometimes "too lenient" in imposing sanctions. This conclusion appears to be based largely on the report's analysis relative to the department's response to substance abuse violations. Once again, it is worth emphasizing that departmental policy requires a response for every condition violation and that while substance abuse treatment is not classified by the department as a punishment sanction, we believe in many instances it constitutes an appropriate and sufficient response to substance abuse violations. In fact, the department has made a priority of increasing its community-based treatment capacity to reduce the need to revoke offenders simply to provide them with access to treatment programming.

Also with respect to the comment that parole staff are too lenient in imposing sanctions, it should be noted that revocation actions have increased each of the last three fiscal years:

FY 1996 - 118 per month
FY 1997 - 142 per month
FY 1998 - 163 per month
FY 1999 - 196 per month

Page 27

Recommendations....

1. The department will continue to provide training to staff regarding the policy, and will monitor implementation of the policy through supervision and case file reviews.
2. Caseloads and supervision standards have increased in recent years. Some have suggested that the supervision standards be relaxed, a move which I have resisted because of a concern that such action would send the wrong signal regarding our public safety mission. The addition of 9 new parole officer positions should have a positive impact on caseloads, provided that the parole population remains stable or decreases. We will continue to work with supervisors and officers regarding work expectations and caseloads, and ways we can better meet our vision of "A Safer Kansas Through Effective Correctional Services."

Ms. Barbara J. Hinton
August 18, 1999
Page 8

3. The department will complete over the next 90 days a special review of its policy and practices regarding the issuance of warrants. Any revisions to the policy will be implemented by December 1, 1999.
4. Pre-revocation as a sanction involves the placement of an offender in a correctional facility in lieu of revocation. With all facilities now operating at or near capacity, beds are not available for this option. Additional capacity will need to be developed or inmate population numbers must decrease in order for this option to be developed. The overall availability of sanction options will be evaluated as part of the review of the grid which will be completed over the next 90 days, as discussed earlier in this response.

The handling of parole revocations has been a recurring issue over the past several years. Concern has been expressed by some that higher revocation numbers result in the need for more prison beds. In fact, that appears to have been the underlying concern for an audit undertaken just two years ago by the Legislative Division of Post Audit. In that audit, the question was whether the department was revoking too many offenders, too quickly, for insufficient cause. The audit found that not to be the case.

The current audit appears to pose a question directly opposite of the 1997 audit, specifically, whether the department revokes too few offenders, too slowly, overlooking behaviors that shouldn't be overlooked. We have attempted in recent years to implement policies to assist parole officers in the difficult task of supervising offenders and in making decisions about when an offender should be returned to incarcerated status. We welcome constructive review of those policies and suggestions for improvement.

The Department of Corrections and individual parole officers take their public safety responsibilities very seriously. I believe the establishment of the grid, increased field contacts and drug testing of offenders, increased case file reviews, use of the Serious Incident Review Board, and the addition of more parole officers all serve to advance the department's public safety role. While our policies are not perfect, I believe we are well ahead of many states nationally and are certainly headed in the right direction.

I appreciate the opportunity to comment regarding the audit report. The cooperation of the audit staff is acknowledged and appreciated as well.

Sincerely,



Charles E. Simmons
Secretary