Speech Delivered to the American Correctional Association

August 16, 1990

San Diego, California

Roger Werholtz
Deputy Secretary, Kansas Department of Corrections

The State of Kansas has had an interesting experience in the development and implementation of community corrections programs. Even the meaning of community corrections in the State of Kansas can be confusing. Nationwide, community corrections includes probation, parole, intermediate sanctions between probation and incarceration, and can even include residential components such as work release programs, pre-release programs, and honor camps. However, in Kansas, community corrections is traditionally identified as a Community Corrections Act program. Initially, Community Corrections Act programs were intended as a clear alternative to incarceration. The history of the Community Corrections Act in Kansas stems from a debate in the mid 70's over whether or not to build an additional prison. Instead of building the prison, the 1978 Kansas Legislative Session enacted the Kansas Community Corrections Act. From that beginning twelve years ago, we have acquired a wealth of experience which serves as the basis for these remarks.

Before spending a great deal of time talking about the idiosyncrasies of the Kansas experience, I want to take an opportunity to make some general comments relating to how I would approach this task if I were to start with a clean slate. One of the single most important factors in implementing a successful community corrections program is to have the enabling legislation contain a clear statement of purpose. Is this program intended to prevent incarceration? If so, of whom? Are prison bound offenders targeted? Are youth center bound juveniles targeted? Is the

purpose of the program to relieve crowding at the county jail level? This point may seem painfully obvious but can be easily overlooked in the rough and tumble of the legislative process, and our experience in Kansas has driven home how very important this little item can be.

Another significant question tied to the same issue is what agency is intended to benefit from this program. In Kansas, if the targeted population is prison bound offenders, the Kansas Department of Corrections is the agency who will experience the greatest benefit from a successful program. If the targeted population is youth center bound offenders, the Kansas Department of Social and Rehabilitation Services will be the primary recipient of program benefits. On the other hand, if misdemeanants are included in the target population, it may very well be the county sheriff and county commission that derive the greatest benefit by having county jail overcrowding reduced. The point to be derived from this observation is that funding resources and responsibility for oversight of these programs should be placed within the agency that is to derive the intended benefit of the legislation. It simply makes for better management and stewardship of the resources.

On the other hand, some have argued that the purpose of community corrections programs is simply to provide more sentencing options to the local courts. This is not necessarily the same thing as preventing incarceration. While the argument of net widening may

seem to be passe with those of us involved at the management level in corrections for many years, the staff in our department deal with that issue on a daily basis with local officials in an attempt to implement and operate community corrections programs. It is not an issue that goes away easily.

Finally, it is my opinion that the agency given the responsibility for implementation and maintenance of community corrections programs must further clarify and amplify the mission of the programs and operationalize the statement of purpose contained in the enabling legislation. Ambiguity may be valuable in the legislative process, but it is extremely cumbersome in the administrative process. Our experience has been that, as we are able to clarify and codify the purposes and expectations of community corrections programs, more energy is focused on efficient operation and less energy consumed in contention.

Another important preimplementation issue deals with the logic of the program. While the intervention proposed may make perfect sense to solve a current problem, it may not be consistent with the overall logic of the particular criminal justice system in which the program is inserted. As I mentioned previously, the Community Corrections Act was implemented in Kansas with the specific purpose of diverting people from placement in state prisons. We believe that a significant number of diversions have occurred, and from that perspective, the intervention was a logical one. However, from the perspective of the larger criminal justice system,

resources may have been and may continue to be mistargeted.

Community Corrections in Kansas has been geared towards primarily property offenders with no prior felony records or at the most, one prior felony conviction. This selection criteria was partially a marketing strategy for the program. In order to win acceptance of the program into the community, the community needed reassurance that offenders would be properly supervised. Consequently, those individuals supervised in Community Corrections Act programs receive a great deal of attention and consume a relatively high level of resources as compared to other individuals supervised by probation and parole. However, offenders placed on parole frequently present more serious behaviors with higher consequences, yet they are excluded from participation in Community Corrections Act programs by the very nature of those serious characteristics. Consequently, many offenders residing in Kansas communities receive less supervision and less resources than some of their milder counterparts. In that sense, it can be viewed that the targeting of resources is not consistent with the best interests of public safety and is not logical from a broader perspective of the criminal justice system. In fact, the bulk of the resources have been targeted towards what I would term mid-range offenders with the intent of keeping them out of the prison system and safely supervised in the community. At the same time, other more serious offenders who are also in the community, are not allowed access to these programs nor targeted with comparable resources through the agencies responsible for supervising them.

Another important area in which attention should be placed prior to implementation is the area of program design. If program design is intended to prevent the incarceration of individuals, then input on the structure of that program must come from people at the level where the decision to incarcerate is made. In Kansas, that decision is made by district court judges, and the people to whom those judges most often listen are other county officials and citizens. Therefore, it makes sense that they should be heavily involved in the planning and design of the programs. It is important that the design of the program allow it to be quickly attentive and responsive to local concerns. This design, however, diminishes the state level control and is inherently less consistent from program to program across the state. However, local input is absolutely essential for this model to succeed. KDOC believes firmly in that concept.

The State's role in this type of model centers around approval of the design and the budget with attention being paid to the consistency with the State's goals and priorities. The State must also establish performance standards for each type of service included in the program. It is also a State responsibility to audit program performance, develop measurements of performance prior to implementation, and to perform routine fiscal monitoring. It is essential that the agency charged with these responsibilities have sufficient staff (or budget to contract for sufficient resources) to carry out these tasks.

If the program design is intended to simply hold down prison populations by either preventing incarceration or accelerating release from incarceration, then such a model can be effectively operated from a state level. This is in contrast with the previous program design described. Local input and advice on a systematic basis is still a must in such a model. This type of system should rely on a validated offender classification system to insure that offenders are neither over supervised nor under supervised. This type of model also fits more easily into the logic of the overall criminal justice system.

Another preimplementation concern is selection issues. The nature of selection criteria will relate heavily to whichever model is used. In my opinion, the ideal system of selection is a validated objective classification system. If law and sentencing discretion allow a person to remain in the community, they should be supervised based on objective criteria related to the offender's history and behavior. If someone is released to the community after incarceration, the supervision level should be assigned on the same basis. A pure prevention of incarceration model requires more local marketing and can seriously limit the program's ability to accurately target offenders.

To this point, I have focused primarily on theoretical issues. However, much of what I have said has been based on twelve years of experience in attempting to implement Community Corrections Act

programs in the State of Kansas. The model selected by the Kansas Legislature was an alternative to incarceration model. Community Corrections Act programs in Kansas are funded by the State and implemented by single counties or groups of counties who are responsible for their operation. The enabling legislation specifies the makeup of a local advisory board to insure local representation by law enforcement, education, city and county governments, and a balance of board members by gender and ethnicity. The creation of these programs relies very heavily on community organizational theory.

In Kansas, there are one hundred and five counties, and prior to July 1, 1990, there were only ten community corrections programs in operation covering sixteen counties. However, those sixteen counties contained over fifty percent of the State's population. In the twelve years that these programs sprung up and flourished, they developed a considerable community based constituency within the Legislature. Because of the faith placed in the model developed through these first ten programs, the 1989 Kansas Legislature mandated statewide implementation of community corrections programs. As of July 1, 1990, every county in the State of Kansas has embarked on the implementation of a community corrections program. While this has clearly demonstrated faith in the effectiveness of the model, statewide expansion has also had the effect of significantly increasing demand on limited resources to fund Community Corrections Act programs. It has placed local programs in competition with each other and placed the Department

of Corrections in a position of sometimes having to choose which programs will receive resources and which will not. This is a very new experience for both local and state officials.

As the years have progressed, the Kansas Community Corrections Act has undergone a number of statutory changes. The program initially contained a funding formula which established a ceiling in terms of funds for which each county might apply. Also contained in the original statute was a chargeback mechanism which deducted a certain portion of the grant from the county each time a targeted offender was placed in a state correctional institution or youth center. Unfortunately, the funding formula had no relationship to reality and some programs could never fail no matter how poor a job they did while other programs could never succeed no matter how good a job they did. The Legislature recognized this anomaly and over a two year period, eliminated the chargeback mechanism. Unfortunately, when the Legislature eliminated the chargeback mechanism, they also eliminated the clear cut focus of community corrections activity. The language of the statute is actually quite vague in terms of what kinds of activities are appropriate to be carried out with community corrections funding. The vagueness was not a problem because the chargeback mechanism was always there to focus attention. However, when the chargeback mechanism was eliminated, a clear statement of purpose for community corrections programs was never put in place. This left the Department of Corrections in the position of interpreting legislative intent and establishing priorities for Community

Corrections Act funds. The lack of clarity in the statute has resulted in the Department's priorities frequently being challenged by local programs as being inconsistent with their own best interests. The Department of Corrections sees its role as insuring that the State's interests in funding community corrections programs are met by the activities of the local operations.

After the elimination of the chargeback, the Legislature determined that programs should be funded on the basis of their historical experience. This meant that the Department developed unit costs for each type of service that the program offered and the program was then guaranteed a "funding floor" as long as they continue to serve the same number of clients and offer the same types of services. This method, in some sense, rewards inefficiency and punishes efficiency in the programs. Consequently, the 1990 Legislative Session once again amended the Community Corrections Act to allow the Department of address administrative inefficiencies and other expenditures which might tend to distort the actual legitimate costs of services.

There continues to be a struggle in Kansas over who should chart the course that local community corrections programs follow. As a State official, it is my opinion that State's interests must be served by State funded dollars. That does not mean that those interests are incompatible with local needs, but when choices must be made, the State's interests must prevail. Increased competition and scarce resources always fuel rumors and apprehension.

Consequently, the Department of Corrections in Kansas has adopted a strategy of making each decision relating to community corrections funding as open as possible. In addition to publishing annual performance reports, the Department this year published a booklet outlining the process by which all funding decisions for Fiscal Year 1991 were made. Each program's budget was described as well as the reasons for the amounts approved for that program. Also listed were concerns about the plan and the budget for each program, charts describing distribution of dollars within that budget, and procedures for distributing additional funds if they become available. This way, each program can compare what it received to every other program. It also allows legislators to see first hand what resources have been made available to their community and how their constituencies fared as compared to others. For the first time in twelve years, the Department of Corrections has contracted for an independent fiscal audit for the previous two fiscal years which closed on June 30, 1990. This will give us an ability to examine the appropriateness of program expenditures in a detail never before available. It will also allow us to make comparisons among the original ten programs.

Community corrections as an alternative to incarceration is no longer a new idea in Kansas. After twelve years of history, it has clearly been accepted by local communities, local officials, and the Legislature. As community corrections matures in the State of Kansas and the immediate problem for which it was created, recedes into history, it must chart a course which gives it a logical place

within the larger continuum of criminal justice services. That is the era on which we are now embarking in our state. Kansas embarked on its experiment with community corrections without a clear cut model. Many mistakes have been made along the way, but hopefully we have profited from those mistakes. It is clear that none of them have been fatal. It is our intention that the expansion of the programs to cover the entire state coupled with opening up the decision making processes will assist Community Corrections Act programs in establishing an appropriate and logical niche in the continuum of criminal justice services in our state. (We are currently examining a model used by the State of Oregon for developing local input into the formulation of state policy.)

Finally, we hope to clearly define in the approaching legislative session, what the role of community corrections should be in the juvenile justice system. We believe that the most long lasting interventions can be achieved by targeting juveniles and are optimistic that the legislature will concur and provide the necessary resources.