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House Social Services Budget Committee
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Overview of Sexual Predator
Treatment Program

Disability & Behavioral Health Services
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Chairperson Crum and members of the Committee, thank you for the opportunity to appear before you today to present the Overview of the Sexual Predator Treatment Program . I am Ray Dalton, Deputy Secretary of Disability and Behavioral Health Services.

The Sexual Predator Treatment Program (SPTP) was established in 1994 by the Sexual Predator Act (K.S.A. 59-29A01) to provide treatment for convicted sex offenders who have finished their prison sentences, and who have been civilly committed by the courts to the SPTP inpatient treatment program at Larned State Hospital (LSH). The SPTP was given a dual mission. First, SPTP's goal is to protect the public from any further victimization by sexual offenders committed to the program. Second, SPTP is required to provide a program of treatment which would assist motivated offenders to reduce their risk for re-offense to the point that they could safely live in open society and become contributing citizens.

The SPTP is comprised of 7 phases of treatment: 1) orientation and preliminary identification of issues; 2) academic learning of principles; 3) application of principles; 4) completion of inpatient issues and development of a relapse prevention plan; 5) reintroduction to open society and preparation for transition; 6) demonstration of ability to perform transition tasks (getting a job, paying bills, outpatient therapy, etc.) and 7) formal transition (ordered by the Court). Phases 1 through 5 are located at LSH; phases 6 and 7 are located at Osawatomie State Hospital.

Treatment Standards

States have an obligation to provide a minimally acceptable and appropriate level of professional treatment to those who are forcibly detained. It is a requirement of due process to provide available health treatment to a convicted individual with a mental condition. The Supreme Court has recited ten specific standards, known as the **Turay Standards**, by which an institutional based sexually violent predator program must be judged in order to meet due process constitutional muster (*Turay v. Selig*, 1999 Wash. LEXIS 74 (2000)). The standards consist of:

- Adequate, competent staff that is supervised by a mental health professional.
- Appropriate training of staff in order to ensure a consistency of treatment between all staff.
- Individualized treatment plans for patients. This includes providing the resident with a "roadmap" in a manner understandable to the resident as to what it takes to complete the treatment and show the progress of the resident.
- Appropriate behavioral management policies and procedures.
- Inclusion of the resident's family in the rehabilitation effort, including visitation, telephone, and mail.
- A treatment oriented "flavor" to the facility that is lacking a Department of Corrections "flavor".
- Separation of participating residents from non-participating residents, in order to avoid harassment of the participating residents.
- Educational, vocational, religious, and recreational opportunities.
- Availability of a grievance procedure.
- External oversight, either in the form of licensing, certification, or a consultation agreement.

Overarching Principle

The overarching principle of the program is “no more victims,” which is a very high standard but one we believe is consistent with the legislative intent to protect the citizens of Kansas. Philosophically, we believe this goal allows for the possibility of positive, therapeutic change by the SPTP residents while also maintaining increased responsibility to protect the citizens of Kansas, especially its children. In that sense, the program views itself as part of the child protection network within SRS. The program is also structured to meet the Constitutional requirements set out by the United States Supreme Court.

Growth of the Program

The program has been steadily growing from its inception in 1994. The current census for the Sexual Predator Treatment Program (SPTP) at Larned State Hospital is 200 as of January 1, 2011. The designed bed capacity for the SPTP at LSH is 214. If the current projections on the growth of the SPTP hold true then the total bed capacity available at Larned will be reached in FY 2012. It is not clinically feasible or physically feasible (based on KDHE facility licensure/certification space requirements) to put more than one SPTP resident to a room. Therefore, it is critical to address the growth of the program now. As we will run out of bed space in FY2012 our plan now includes the temporary conversion of program space into bed space, while the Department and the Administration develop plans to address the growth of the program.

The residents of the Sexual Predator Treatment Program (SPTP) progress through various stages during their treatment. The second to last stage is the transition program; progression to this stage occurs through a progress review and order by the court. Residents in the transition program generalize what they learned in treatment to real world settings, re-learn independent living skills, and obtain employment that will allow them to live successfully once they are on conditional release. While in the transition program, the resident prepares for successful return to the community and court monitored conditional release. A predator reaches court monitored conditional release, the last stage before unconditional release, by successfully completing all seven phases of the SPTP, being recommended for this stage by a clinical review panel and then recommended by the court for this stage. In the conditional release phase the resident is the custody of the courts and no longer supervised by SRS.

The current transitional program is the transition house located on the grounds of Osawatomie State Hospital. State law limits the number of residents in a transitional program to eight per county. As of January 1, 2011, there are seven people in the program, with one person scheduled to enter the program this month. SRS estimates that by FY 2012 there may be as many as 12 persons in the transitional program. Therefore, the Department will work with the Administration to develop a plan to accommodate the growth in the program.

Attached is a chart depicting the status of persons committed to the program since its inception.

It is difficult to predict the actual number of offenders who will enter the program from year to year. To illustrate this challenge, let me describe what the process is for a person to be committed to the program.

Within 90 days of release from prison or a state mental health hospital, an individual who has been convicted of a violent sex offense and has a mental abnormality, or has been found not guilty by reason of insanity for a violent sex offense, will be reviewed by the Multidisciplinary Team (MDT) to assess the level of risk to sexually reoffend upon release. The MDT is a group of five representatives from state agencies, mental health professionals, and sex offender treatment professionals, who are appointed by the Secretary of Corrections. Once assessed by the MDT, the case is reviewed by the Prosecutor's Review Committee within the Attorney General's (AG) office to determine if there is enough probable cause to detain the individual.

If so, there is a hearing in the county of the original conviction. If the probable cause of the AG's office is upheld, the individual is ordered to Larned State Security Program (LSSP) for an inpatient sexually violent predator evaluation. If the person is found by LSSP to meet the definition of sexually violent predator (SVP), he is returned to the county jail and awaits trial. He may stipulate to being a SVP and be immediately committed to the SPTP on the grounds of Larned State Hospital, or he may wait for a jury trial, which will determine if he is a sexually violent predator. At any time after the assessment by the MDT, if there is a determination made that the individual does not meet the criteria for SVP, he may be released.

Every person ultimately committed to the SVP program has been screened several times and determined to present an extremely high level of risk of repeating their prior sex offending behaviors. Currently, approximately 3.9% of those persons who are being released from DOC custody with a history of sexual offending behavior are committed under the law.

The best estimates of growth at this time are the historical averages which are approximately 18 persons per year to the SPTP at LSH and approximately two persons per year moving from the inpatient program at Larned to the Transitional Housing Services at OSH.

One aspect of the Kansas program which is widely admired around the country is the systematic structure of our transition programming. Few states, with the exception of Arizona, have been able to approach our 3-phase system with its separate facility for transitioning. This is a strong advantage of the Kansas approach but also adds to time required for a resident to complete the program. Given the focus of "no more victims" for the Kansas program, this additional time has the value of giving program staff the opportunity to observe the real-world behavior of the resident before any recommendation for conditional release is made.

Oversight of the Program

The SPTP was reviewed in July of 2008, by Robert J. McGrath, a nationally known consultant on Sexually Violent Treatment Programs. His review of the Kansas SPTP found that overall the program was sound, followed best practices and that administrators and staff were knowledgeable and committed. He also observed that the amount of treatment was average or slightly above average compared to other programs and that the rate of placement in the transitional release phase of the program (about 6% of the committed population) is similar to or slightly higher than other programs. This was Mr. McGrath's second visit to the program and the fourth comprehensive review which the program has underwritten since its inception in 1994. The two earlier reviews were conducted by Dr. Anita Schlank, who consults professionally for programs around the country.

As part of Larned State Hospital, the SPTP must maintain standards set by a national independent organization The Joint Commission, which surveys the hospital at regular intervals. The SPTP is one of only three civil commitment programs in the country which are Joint Commission accredited. At the state level, the Kansas Department of Health and Environment (KDHE) has conducted periodic examinations of the hospital and the program. As with The Joint Commission, whenever KDHE identifies an area of deficiency, such as water temperatures within a specified range, a plan of correction is presented, approved by the agency and implemented by the program and the hospital. The hospital also has its own risk management department which exists to investigate any potential problem areas brought to its attention by staff or patients and to protect the rights of all hospital patients. The program views these internal and external oversight processes as an integral part of its efforts to maintain a nationally recognized program.

In April, 2005, a Legislative Post Audit of the SPTP was conducted. The focus was primarily on the growth of the SPTP and on the projections for increasing census and use of resources which would follow from that growth. In the course of the audit, the program’s structure and processes were reviewed and found to be quite consistent with its stated purposes.

Finally, a word should be said about the nature of the program and the nature of the resident population at the SPTP. The SPTP is, for the great majority of residents, a post-incarceration program. In other words, residents who have served the time in prison proscribed by the courts for their offenses are then mandated to the SPTP because they are seen as still constituting a risk for harm to the citizens of Kansas. The result of this structure, the SPTP following prison, is that most residents arrive at the program with a good deal of anger at “the system”, which tends to be directed at the SPTP staff, procedures and rules. This tends to be acted out in two major ways: rejection of the treatment offered and complaints against the program. This means that, for many of the residents, primary goals of treatment include anger management and developing a constructive engagement of the program. It has also meant that a certain number of residents spend a great deal of their time utilizing any avenues of complaint available to them: hot lines, regulatory agencies, legislators, the courts, and public service groups. This occurs despite the fact that residents have due process procedures available to them within the program which allow for appeal to the superintendent of the hospital and the Secretary of SRS. All complaints are taken seriously but the record, in the courts and from external reviews, would indicate that, while occasional modifications have been made to improve the program, the SPTP has stood up well to any substantive challenges of its structure or functions.

This concludes my testimony and I will be happy to answer any questions you may have.

Status of Persons Committed to the Sexual Predator Treatment Program	
Total Residents Committed to the Program	247*
Number of residents at LSH SPTP	200

Number of residents at OSH THS	7
Number of residents who have completed the program	2
Number of residents on Conditional Release	4
Number of residents who have died	15
Number of residents released for legal reasons	13
Number of residents at DOC/Jail with detainers	6

As of January 1, 2011

*unduplicated number