

Kansas Commission *on* Peace Officers' Standards *and* Training (KS♦CPOST)

**Commission Meeting Minutes
Holiday Inn West – Topeka Room
Topeka, KS
February 5, 2008**

Attendees:

KS♦CPOST Members Present	KS♦CPOST Staff
Commissioner Jackie Williams, Chairman	Steven R. Culp, KS♦CPOST Executive Director
Commissioner Sam Breshears	Eric Williams, KS♦CPOST Legal Counsel
Commissioner Ellen Hanson	
Commissioner Robert Blecha	
Commissioner Bob Odell	
Commissioner Frank Gent	KLETC Staff
Commissioner William Seck	Ed Pavey, Kansas Director of Police Training
Commissioner David Miller	John Green, KLETC Associate Director
Commissioner Gary Steed	Dave Warry, KLETC Assistant Director
	Darin Beck, KLETC Legal Counsel

Commission Chairman Jackie Williams called the meeting to order at 1:00 p.m. and led the Pledge of Allegiance and roll call of commission members.

Presentations and Recognitions by the Commission

Chairman Williams welcomed and introduced the newest commissioner, Frank Gent, Police Chief of Beloit Police Department. Commissioner Gent has been in law enforcement for thirty years and during that time he has attended numerous seminars including the Kansas Certified Public Manager program; Arkansas Rural Administrators Academy; DEA Drug Unit Commanders Academy; FBI Central States Executive Law Enforcement Development Seminar; and currently serves as Region 5 representative for the Kansas Association of Chiefs' of Police.

Executive Director Steve Culp introduced the newest staff members of KS♦CPOST, starting with Eric Williams, Legal Counsel saying he recognizes the importance of our mission to the citizens of the State of Kansas. He brings experience in the criminal justice system with the Federal and State District Court level and had previous employment with the District Attorney's Office in Shawnee and Sedgwick Counties. He is a graduate of Wichita State University and earned his Juris Doctor with honors from Washburn University.

Susan Belden, Central Registry Manager was introduced in absentia; she began work on January 2 2008. She brings experience from the Kansas University Medical Center and a degree from Wichita

State University in Business Administration. She is quickly becoming proficient in her position as Central Registry Manager.

Kansas Law Enforcement Training Center staff introduced themselves: Ed Pavey, Director; Dave Warry, Assistant Director; John Green, Associate Director; and Darin Beck, Associate General Counsel.

Executive Director Culp asked Chairman Williams to move the "Resolution in Support of Weighting KLETC's Basic training Comprehensive Final Examination" item to new business. It is listed on the agenda under *KLETC Report from Director Ed Pavey*. Chairman Williams hearing no objection approved the change.

Approval of the Minutes from November 6, 2007

Motion to approve the minutes from November 6, 2007 was made by Commissioner Hanson and seconded by Commissioner Odell. Voice vote was conducted and the motion carried unanimously.

KS♦CPOST Mid-Year Financial Report

Executive Director Culp gave a mid-year FY '08 Financial Report for KS♦CPOST. Revenues which fund the KS♦CPOST budget are increasing at a noticeable and more consistent rate through the first 6 months of fiscal year 2008. It appears that more municipal courts are fulfilling the requirement of the statutes but there are still some that are not responding in a timely manner. The functioning of the KS♦CPOST Agency will be impacted only if the revenues fail to follow their current trend line and the carry forward funds have been exhausted.

Funds were submitted to the State Treasurer's Office as follows:

July 2007	\$57,782
August 2007	\$54,333
September 2007	\$63,043
October 2007	\$53,035
November 2007	\$57,093
December 2007	\$59,471
Total revenue collected	\$344,757
Average monthly revenue	\$57,460
Required monthly figure For projected annual budget of \$715,516	\$59,626

Executive Director Culp reviewed the graph showing revenue trend lines and they continue to climb towards the required monthly average of the projected budget which is \$59,626. The first year of operation the agency spent almost nothing but the cost of moving into our own office will be enormous. Once we become fully staffed, fully operational and into our office we will need somewhere near \$60,000 per month in revenues to operate. The current revenues are meeting the accurate predictions made by KLETC staff.

He also clarified the graphic showing 2007-2008 midyear revenue comparisons and observed the income for FY 2008 is significantly better than it was in 2007. It was noted that a severe weather incident like Greensburg or an ice storm could disrupt the normal operations of law enforcement

taking officers off the streets, affecting the activities of court dockets and the collection of fees which could affect KS♦CPOST funding.

Executive Director Culp then reviewed FY '08 agency expenditures of \$83,606.38 with \$70,289.74 comprising salaries and benefits and a modest \$13,316.64 spent on other expenditures which include printing and advertising; in-state travel; out-of-state travel; recruitment; dues and association memberships; awards, rewards and premiums; contractual services; professional services; stationary and office supplies; other supplies; commodities and capital outlays for computer equipment and support. Overall the expenses are quite modest with computer purchases being the largest. It was explained these will grow larger as more computer equipment will be needed as additional staff comes on board. As the agency grows, more complicated computer equipment will be required for operating systems, data bases and servers with networking capabilities in order for KS♦CPOST to accomplish mandated responsibilities.

2009 Budget

Executive Director Culp explained the KS♦CPOST budget will be before the Senate Ways and Means Committee the next day. Counselors Williams and Beck will attend the committee meeting with Executive Director Culp. The KS♦CPOST budget compared to some of the other larger more established agencies is relatively small. The budget request of \$715,000 is the same amount as last year, considering there is zero growth and the source of funding for the agency comes through assessment fees rather than the State's general fund, no issues are anticipated when appearing before either the Senate or House budget committees.

Fiscal Year 2008 expenditures include \$129,000 earmarked for expenses associated with establishing the KS♦CPOST independent office. This amount is not sufficient but additional funding of \$73,000 is targeted in the FY '09 budget once it is approved. The \$200,000 will not be enough to purchase all of the sophisticated equipment that will be needed for a Central Registry to track nearly 8,000 law enforcement officers in the state of Kansas but it will begin the project.

A final question was asked concerning the amount of the current fund balance. Executive Director Culp responded saying he tried to be ready for this question however everyone he called was "up on the hill" but his best estimate is about \$350,000. Chairman Williams asked if unspent funds could be carried over to the next funding year. Since KS♦CPOST funding is not general tax dollars the statute permits funding carry over from year to year. Executive Director Culp also commented that if additional mandates were enacted for the agency additional resources would be required also.

Chairman Williams asked for a motion to accept the financial report; Commissioner Breshears so moved and it was seconded by Commissioner Blecha. The motion passed on a unanimous voice vote.

Report on Disciplinary Hearing and Investigations

Executive Director Culp provided a report on Disciplinary Hearings and Investigations conducted by KS♦CPOST. There was an authorized investigation and contact with Officer Timothy M. Finney of Topeka, who plead no contest to attempted theft and lying to a law enforcement officer. He was terminated by the Topeka Police Department and filed for arbitration. The investigatory committee authorized KS♦CPOST staff to contact the officer; notifying him an investigation had been approved and would submit the investigation record if the facts supported a hearing on the merits of revoking his certification. He submitted a voluntary surrender of his revocation and he will be

placed on the record of Disciplinary Proceedings today as the final document has been signed by Chairman Williams.

The Investigatory Committee also met today and authorized some other actions as they pertain to further investigations which are closed meeting and they may come before a hearing so no specific information can be presented at this time. However, a recommended motion came about pertaining to a new procedure for investigations and will be made by the committee chairman during the new business part of the meeting. Executive Director Culp reported that for the first six months of the year we received 72 termination notices for officers across Kansas. A significant number of these notices indicated the officer either resigned voluntarily, or left due to a negotiated settlement or was terminated under disciplinary or investigative suspicions. These figures are based on the statewide pool of 7,900 law enforcement officers throughout Kansas. Approximately half of these departures were due to normal turn over.

Chairman Williams asked for the names of the members of the Investigatory Committee, Executive Director Culp stated Commissioner Odell was the chair and Commissioners Jarboe and Ralston also serve on it. Chairman Williams asked Executive Director Culp to place committee assignments on the next Commission meeting agenda.

Municipal Training Reimbursement Fund Report

Executive Director Culp began by handing out notes taken at the Municipal Training Reimbursement subcommittee meeting held December 12, 2007, while explaining that the fund reimburses satellite academies licensed by KLETC. The available funds are distributed annually on the basis of a formula and they reimburse the satellite locations for a portion of their expense incurred while training staff.

The December 12, 2007 subcommittee meeting was chaired by Commissioner Miller and conducted by telephone conference. Other committee members participating were Commissioners Stowers and Hanson along with Executive Director Culp, Lanny Grosland and Counsel Beck. Reviewing the disbursement formula and the amount of available funds allowed actual expenditures to be approved.

Contained in each commissioner's notebook is information on the municipal graduates for training year 2007; a motion to determine the disbursement formula signed by all members of the committee and Legal Counsel Darin Beck; the Fiscal (Training) Year 2007 Disbursement Formula which showed the actual calculations and was signed by all members of the committee and legal counsel; and a Proposed Reimbursement Schedule for Fiscal (Training) Year 2007 also signed by all members of the committee and legal counsel.

Commissioner Steed asked why municipalities received a greater share of the funds than the sheriff's departments. KLETC Director Ed Pavey explained that only municipal police agency academies participate in this program and the Sedgwick County Sheriff's academy would not be eligible to receive reimbursement funds. The reason this came about is because of a negotiated legislative conference committee agreement in 1992. The proportions of the settlement recognized the greater contributions made by the bigger cities in Kansas, like Wichita, Topeka, Kansas City and Johnson County and acknowledged that the majority of the municipal court fee funds are generated by them. Director Pavey informed the Commissioners that the checks are being processed at this time.

KLETC Report by Director Ed Pavey

Chairman Williams then called for Director Ed Pavey to provide a report on the Kansas Law Enforcement Training Center. He began by informing the commission that the Kansas Development Finance Authority, the branch of state government that handles all of the bonding for capital improvement projects, processed the bonds for the new construction to be done at KLETC. They sold \$18 million worth of bonds in December. Meaning that now KLETC is obligated to an annual payment of \$1.4 million for 20 years. This is a first as KLETC has never bonded any projects before.

Like KS♦CPOST, KLETC is very dependent upon the docket fees for meeting their needs. Director Pavey echoed Executive Director Culp's assessment of the current flow of docket funding monies. He said they discovered five municipalities in the state that weren't contributing timely and they've all been contacted and have since rectified the issues that prevented them from meeting the payment deadlines. Everyone is current now.

The construction project is underway, an informal ground breaking was held in mid-January. Five companies bid on the project, the bids were fairly close and the bids came in at \$1 million less than expected. The Law Company, a Wichita company with a national reputation, was awarded the contract with a bid of \$9,478,200. The project area has been fenced off and earth work has begun. A fast track construction time line has been adopted and project completion is anticipated in 13 months.

Phase II of the project is underway. Work has begun with architects to establish fees for the driving course and the tactical shooting house and the design work should begin by summer. Estimated cost is \$4 million.

Currently two classes are in session. The 196th class just started February 4th and has 60 students. The 195th class has been underway and their graduation of 60 students is scheduled for the end of February. Director Pavey said he had just been informed that the school doesn't have electricity. He then explained about the two days the school lost electricity in December, students were not dismissed as it wasn't in their best interests to be out on the roads under those conditions. Improvisation and a dedicated staff kept the school and the cafeteria functioning even though it was tough going. The event provided an opportunity to work under real life conditions the students may well encounter in the future. As a result of that experience and receiving lower than expected construction bids it's been requested that part of the extra funding be used to review and study KLETC electrical needs and obtain some backup generators that will at least power a couple of the class rooms and the kitchen for future electricity outages.

The Ride Along Program was held during Thanksgiving week, November 2007 when KLETC instructors were sent out in the field for a couple of days. They rode with 32 agencies that participated. The reports have been returned and are being processed, to compile the data from the participant officers the instructors rode along with. The Academy is interested in knowing what areas recently trained officers feel confident about and what areas might require additional instruction. One area consistently requested by new officers is more skill-based training because time spent doing that in training is limited.

This concern ties into the timely topic of racial profiling; KLETC is working on responding to a request from the governor's office through KU to develop a cost projection for training every law enforcement officer in Kansas annually with 2 hours of continuing education on racial profiling. Director Pavey asked for input from the Commission members on this issue. He reminded everyone

that all academies statewide provide 560 hours of instruction for new officers based on job task analysis of law enforcement officer duties. KLETC is currently providing cultural awareness and diversity training. Recently a sheriff called to ask about four hours of mandated basic training in the specific area of racial profiling. Cultural awareness and diversity training are already part of the academy curriculum. A specific presentation is included focusing on racial profiling and the issue is brought into discussions for other areas of training such as ethics.

Directory Pavey said that he understands the legislature demands for racial profiling continuing education but that it is the responsibility of agencies to provide it for their officers. He also expressed concern that conducting mandated training for racial profiling specifically may open the door for other narrowly focused groups to ask for mandated training related to their specific concerns. Implementation of specific mandated training may ultimately prevent a chief or sheriff from conducting their own continuing education curriculum for their staff. He asked for feedback from the commission but also made it clear that KLETC will fully comply with whatever the legislature decides.

Commissioner Hanson asked if this possible training would be 2 additional hours above the current required amount and it was explained that details were not known at this time. Chairman Williams said there had been much discussion about the possibility of mandated racial profiling training and he predicted if such a requirement was enacted it would become part of the already required continuing education. But a more detailed discussion will be held on this issue February 6, 2008. State Senator Betts has some concerns and proposals in this area to be discussed further and at one time he wanted to make racial profiling a crime, however there is no support for this kind of proposal

Executive Director Culp interjected that unlawful is a better descriptor for racial profiling than illegal as this definition makes a civil remedy possible. Chairman Williams agreed that mandated training was a big part of the discussion but other concerns were discussed also. One was related to a prosecutor's perspective and how to define racial profiling as a crime. Another factor is that these situations usually involve two people and many times it comes down to one person's word against the other.

Director Pavey said he brought this subject up before the commission as they provide the oversight for training of law enforcement officers in Kansas. He said that in the event that mandated training is brought up by the Kansas legislature he needs to know the position of this body regarding possible changes. Commissioner Hanson expressed concern that if racial profiling training was developed by KLETC for use on a statewide basis it would not be as meaningful as something drawn up by an agency that could develop training for their own staff to address specific local issues.

According to Executive Director Culp current requirements allow any racial profiling training to be part of the annually required 40 hours of continuing education. He shares Director Pavey's concern about other "causes" requesting specific mandated training for law enforcement officers and possible loss of local control for determining training issues. Commissioner Hanson also objected to the inference that law enforcement is not vigilant or capable of policing and training staff in these important areas. Chairman Williams summed up the sense of the commission as not in favor of mandated training for racial profiling.

Commissioner Breshears stated that KS♦CPOST did not support additional training over the current mandated continuing education required by statute. Commissioner Hanson said agencies believe the training being developed and presented on a local basis concerning racial profiling is far more

meaningful than any training developed by KLETC and presented statewide. Chairman Williams said his understanding of Senator Betts' concerns focused not so much on tracking the training presentations as making sure a certain amount of training about racial profiling ought to be done for new and existing law enforcement officers annually. That the training would be tracked was assumed by Senator Betts.

A commissioner asked if training wasn't tracked already through annual submission of transcripts as all agencies offer training and continuing education that meets the statute requirements. It was pointed out that continuing education was tracked but there could be variations in the title or description of the training provided by agencies that might not specifically reflect racial profiling as a topic. Director Pavey wondered if Senator Betts realized that racial profiling training was such an integrated part of both academy and ongoing agency training. Chairman Williams agreed and said he believes the misconception has been corrected.

Director Pavey continued the KLETC report with information on a strategic planning session conducted with administrative staff during the time the teaching staff was off between Christmas and New Years. The result was a list of items for future accomplishment that will be implemented as appropriate. An extension was just received on the Memorandum of Understanding with the Office of the Governor concerning domestic violence along with a \$26,000 grant to use for training on domestic violence issues. This week KLETC is providing S.A.M.S. School, a Sheriff's Administrative and Management Seminar being coordinated by Mark Damitio and conducted on site at the Holiday Inn to train sheriffs and command staff on critical incident management for executives. Director Pavey concluded his presentation saying the KLETC FY'09 budget presentation had been made by John Green, Darin Beck and himself at KU recently. If the budget is approved it will be around \$5.7 million.

Old Business

Chairman Williams asked Director Pavey if he had a report on the racial profiling training video project with Captain Terri Moses, Wichita Police Department. Director Pavey responded saying he wasn't sure what stage the project was as he wasn't able to attend the January meeting. Chairman Williams said there was a draft DVD and he would get a copy of it. Next meeting on the project is Feb 11, 2008 Director Pavey said he planned to attend.

Executive Director Culp reported that he developed and mailed out a racial profiling survey as directed at the previous commission meeting. He explained the survey was divided into three parts: Complaint Investigations; Case Review and Disposition; and Hearing Process. He summarized Commission response with broad based statements for each category:

- Complaint category-- it appears that the Commission is dissatisfied with HRC conducting investigations. The other statement options in this category were acceptable to the Commission for the most part.
- Case review and disposition category-- it appears the commissioners who responded believe the Attorney General's office should be responsible for the review of the investigation and disposition of the matter.
- Hearing process – there should be a measure of due process beyond the original investigatory entity.

Chairman Williams asked for clarification of the third finding using an example of a complaint that goes before the Human Rights Commission and it results with a finding of probable cause. Then it hangs out there. Is that what category three is referring to? Executive Director Culp explained that

no matter what entity investigated the complaint there should be another organization that is beyond the span and control of the investigating organization to determine a due process outcome.

He cited an example of a staff member of KS♦CPOST who investigated a complaint and turned over the findings to the Commission for final disposition. The entity doing the investigation is not the one who is part of the review and ultimate determination of the disposition. Chairman Williams asked if the survey response suggested that the Attorney General's office should be involved. Further explanation from Executive Director Culp described a process that involved an investigation finding that was presented to a state agency, the state agency should sit down with legal counsel and a representative of the Attorney General's office to determine if there were grounds for referring the complaint on to another entity or if by statute it is to be given to a Board for further action.

Darin Beck, Associate General Counsel for KLETC, cautioned against the use of a survey as a basis of action. He explained the survey information was gathered to provide guidance for the Commission as they put together a position on the matter of racial profiling and Executive Director Culp's presentation was his interpretation of the data collected with the survey. It is now up to the Commission to formulate a policy.

Executive Director Culp stated his professional philosophy was that no one should administratively be able to tell the head of a law enforcement agency how to run their agency when it comes to their personnel. He reiterated that while the KS♦CPOST exists as a body to review the conduct of individual officers it was never the intention of the Commission to assume jurisdiction over law enforcement agencies.

Chairman Williams initiated discussion with Commission members concerning the issue of racial profiling. Commissioner Hanson asked if Commissioner Breshears requested the survey be done because Commission members were not satisfied with the quality of the current system. Executive Director Culp explained the issue of racial profiling is so broad the survey was suggested as a means to assist the Commission with focus while developing policy. Chairman Williams asked if when the bill was developed was there discussion about whether responsibility should be with KLETC, the Attorney General's Office or KS♦CPOST. Director Pavey explained originally KLETC was to be given investigatory responsibility for racial profiling investigation without any additional personnel or finances. But ultimately the responsibility was given to the Kansas Human Rights Commission along with \$200,000 to hire investigators.

Commissioner Hanson stated the KHRC was given no training and no real substantive body of information to work from. Executive Director Culp reminded the Commission that the first line of any recommendation is "with additional resources". Commissioner Breshears commented on the sensitivity of this issue and the need for tact in a Commission response. But he made the point that there are times when behavior warrants an investigation and people need to be sanctioned and corrected when appropriate. The agency administrators serving on the Commission have taken those steps and provided training. He continued saying at some point in time Commission representatives need to go to the Capital whether it's before the Racial Profiling Taskforce or a hearing if another bill comes forward and make it very clear that as a body we don't condone this behavior, we're sensitive to what's out there and what's perceived to be occurring on a regular basis but we know this is not happening day in and day out.

Executive Director Culp said Commission Chairman Williams is also the co-chair of the Governor's Task Force on Racial Profiling. He continued saying he attended one of the Task Force meetings

and was asked about KS♦CPOST involvement. He was unable to commit for the board but he told them the philosophy and statutory powers of the board. He told them if the Commission receives information about an officer that has issues of moral character, or veracity or gross and inappropriate behavior that denigrates the profession of law enforcement that it will be looked into. No special legislation is needed because the process already exists. Other issues, as identified by Chairman Williams, are involved also. It seemed that people in attendance were surprised by this information.

Chairman Williams said Executive Director Culp had been invited to Task Force meetings on a couple of occasions and he was very straightforward, fielded lots of questions and handled them all very well. He explained what KS♦CPOST was about and was asked what if KS♦CPOST was substituted for the Kansas Human Rights Commission and he said the organization would do whatever the law requires. It was brought out during questioning that KS♦CPOST has no investigators and none have been budgeted for this particular area.

Law enforcement has been well represented before the Racial Profiling Task Force by appearances from both Director Pavey and Executive Director Culp according to Chairman Williams. It seemed that the task force was satisfied with the information received. Chairman Williams went on to say that being the Co-Chair of the Racial Profiling Task Force and the Chair of the Commission on Peace Officer's Standards and Training he knows how he feels about all of the issues but feels conflicted about who he would represent speaking before the legislature. Broadly speaking he would represent law enforcement but which of the groups represented at this meeting.

Director Pavey asked if the purpose of the task force was to come up with a series of recommendations for consideration and Chairman Williams agreed that was one of the task force responsibilities but there were others also. Other members of the task force represent different areas affected by or concerned about racial profiling.

Commissioner Hanson explained she was trying to be sensitive to the position of Chairman Williams but she did feel like law enforcement was forced to deal with this issue differently than the direct approach used with most other problem areas. She compared the racial profiling issue to the Emperor's New Clothes; saying legislation has defined it and it is being pushed forward as if this was a gigantic common problem. But when statistical data is requested by law enforcement agencies to determine the extent of the problem the numbers just aren't there. Maybe 30 complaints have been made with one maybe two complaints upheld. Understandably not everyone is comfortable reporting this type of issue but only the complaints actually received can be counted.

Commissioner Hanson continued saying at some point in time the Commission is going to have to speak out and say racial profiling is behavior that we do not condone. That instances are dealt with as required but it is no more grave than excessive force or a lot of the other things dealt with by law enforcement every day that impacts a broader section of society.

This body, the Commission, is comprised of professionals that stand for impeccable behavior and policing our own. The group can take a stand saying the issue of racial profiling is important, every law enforcement agency has a lot invested in making sure racial profiling is not acceptable and a good job is being done. Chairman Williams said he agreed but on this particular issue because of his dual role he suggested the Vice Chair should take the lead on this issue. He wants to avoid conflict of interest for certain.

Chairman Williams asked for a motion, Commissioner Breshears made a motion that Commissioner Hanson be appointed to a chair position for the topic of racial profiling. Seconded by Commissioner

Odell and it passed unanimously. Chairman Williams turned the meeting over to Chairman Hanson. She asked for guidance on the next step. Executive Director Culp suggested she ascertain from the commission if they want to take a stance and make a recommendation about the issue of racial profiling and what that stance would be. May be necessary to identify or frame the issue and determine if Racial Profiling Commission wants to devote a significant amount of resources to a problem that isn't statistically significant.

Counselor Beck recommended the charge of the committee be two things, one to decide whether the commission should pursue legislation to make a change, or alternatively, to develop a commission response to any legislation that comes forward pertaining to racial profiling. Director Pavey asked for the time of the Racial Profiling Task Force Meeting on February 6. Chairman Williams replied the meetings that he referred to were the law enforcement meetings being held at the Capitol Plaza and the SAMS meetings conducted by KLETC which begin at 10:00 am. Chairman Williams said he was planning to attend the 3 pm meeting of the Kansas Peace Officers and could attend other meetings if needed. He was encouraged to attend all meetings and share his unique perspective.

Co Chair Hansen explained she could not be at the meetings the next day until 1 pm due to another meeting. She also confirmed with the group that they wanted to wait until proposed legislation was brought forth before presenting a Commission response. A commissioner clarified that position was just concerning possible legislation and asked if a proposal should be developed regarding the possible transfer of racial profiling complaint investigation to KS♦CPOST. Commissioner Steed said the early discussions concerning complaint investigation responsibility occurred prior to the formation of KS♦CPOST as a state agency. It would be appropriate for KS♦CPOST to have that duty. He felt it was suitable for the Commission to recommend that that KS♦CPOST assume investigatory responsibility and be funded as such through legislation or some other means.

Executive Director Culp explained currently that it was possible under the current system for the Human Rights Commission investigation of the small number of complaints that are received, and if there is probable cause then they are passed along to KS♦CPOST for review or a more complete investigation if needed. In this way the HRC serves as a filtering organization. Chairman Williams agreed that this was the existing structure but he understood Senator Betts may want to make some changes to the process. If so then discussions between him and KS♦CPOST would be needed. However there are some members of the Racial Profiling Task Force that have reservations about police investigating police matters.

Commissioner Hanson reminded everyone that her initial concern was the manner, in which the HRC conducts their investigations and there is no standard of probable cause used to determine if an investigation is needed. All that is needed is an allegation and once that allegation is received HRC staff does a face to face interview. For law enforcement officers this is an uncomfortable experience. This process is different than the processed used by KS♦CPOST, before they investigate alleged wrong doing there has to be a threshold of substantive fact. Executive Director Culp agreed saying if he brings allegations or complaints to the investigatory subcommittee without facts an investigation is not authorized.

Commissioner Hanson said the HRC had a similar process however they always authorize an investigation. She suggested the response to this might be to develop a series of steps that include KS♦CPOST somewhere in the process. Commissioner Hanson explained the current HRC process is a problem that needs to be fixed. Commission members need to observe a HRC investigation interview to see the gross ignorance exhibited along with the resulting effect on a young officer to

appreciate the problem. Her department now schedules the HRC investigatory interviews during the officers working time even if he's on 3rd shift and reports for work at 11 p.m. rather than off shift because there is no factual basis for the complaint.

Commissioner Hanson explained that concerns about this problem approach to complaint investigation by the HRC were expressed by members of the Lenexa Police Department during a Taskforce Town Meeting in Kansas City. But the response given during an interview with an officer was that the investigation was required to prove there was no issue. However, Commissioner Hanson felt that was not how the interview with the officer came across and the response was meant to placate the department so the issue would be dropped.

Executive Director Culp agreed that a baseless investigation could be damaging to a young officer's career even if there were no findings. Counsel Beck asked Commissioner Steed if he intended to make a motion. He agreed and said he would like to recommend KS♦CPOST be the investigators of racial profiling complaints in the state of Kansas. Chairman Williams clarified the motion asking if he meant the statute be amended to delete the Human Rights Commission and substitute KS♦CPOST? Executive Director Culp asked if the motion would contain the phrase "with the appropriate resources." Seconded by Commissioner Breshears who sought clarification asking if this represented a proactive venture to seek additional legislation by the commission or if legislation comes forward have this included. Commissioner Steed said at least if legislation comes forward the commission should be able to respond in a unified manner. Chairman Williams asked for input about the Attorney General's Office handling the complaints instead of KS♦CPOST? Commissioner Hanson said she agreed with Executive Director Culp's contention that the investigations fit within the scope and mission of KS♦CPOST as do all complaints of behavior or misbehavior of law enforcement officials. Instead of building another system use the one that's in place. It was pointed out that the commission has to have the resources and the investigators to be able to do this job. Executive Director Culp asked for clarification would every complaint about racial profiling relative to car stops be forwarded to KS♦CPOST and would every call result in an investigation. Commissioner Steed said he was not suggesting KS♦CPOST would need to take every call; currently he receives, investigates and resolves complaints within his own department.

Chairman Williams said generally citizen complaints go to the HRC and by their own admission very few complaints evolve into cause. Commissioner Hanson said she thought a great many complaints went directly to the appropriate agency initially and did not get passed along. She felt many complaints would never reach KS♦CPOST. Commissioner Breshears suggested that only the complaints that come through the HRC and require investigation be passed along to KS♦CPOST. Complaints handled within each agency would continue to be resolved locally.

A Commissioner asked if this proposal would strengthen the existing process. Executive Director Culp pointed out within the current process KS♦CPOST can review and take further action on any finding made by HRC. Chairman Williams said Chief Mike Watson, Manhattan Police Department and task force participant agrees with that point completely.

Commissioner Seck asked Executive Director Culp what would be needed from an infrastructure stand point if the responsibilities of investigating racial profiling were assumed by KS♦CPOST. He expressed concern about the impact of this type of change on the office space requirements for the agency especially since moving plans are being made at this time. Chairman Williams interjected that he never encouraged the task force to assign more responsibility to KS♦CPOST because the impact on the agency is unknown at this time. Executive Director Culp agreed that it is difficult to

know what resources would be required to implement these changes in his agency. There is also the data collection aspect that no one has mentioned.

Commissioner Hanson asked if there was further discussion or questions on the pending motion. To recap the motion was an amendment deleting HRC from investigating racial profiling complaints and substituting KS♦CPOST instead. The question was called and the motion passed on a unanimous vote with Chairman Williams abstaining.

Commissioner Hanson asked if the Commission wanted to tackle the legislative issue. Chairman Williams said he thought discussing possible legislation was OK but he thought a bill would be introduced in the Kansas legislature soon if it hadn't been already and it would be important to see what it said. By waiting for more information the Commission could respond specifically to the bill if needed.

Commissioner Steed said he felt the racial profiling issue was within the public consciousness of many professional associations and it would be relevant to see how their input impacted the formation of the bill. Chairman Williams also pointed out there would also be hearings on the bill. It was the consensus of the group that the Commission had positioned itself well for further developments in this area.

Chairman Williams said he had one more item of old business. He asked Executive Director Culp about the status of the two investigator slots. Executive Director Culp said hiring two investigators was a high priority for him. He currently has 50 applications to review and rank for this. Having office space for the new hires is also a concern. There will be one more position to be filled for an IT support person.

NEW BUSINESS

Director Ed Pavey explained there was an issue of concern to KLETC. Darin Beck, Legal Counsel for KLETC, will present a potential solution to the matter. It is hoped a consensus can be reached with the Commission so the necessary changes can be implemented.

Counselor Beck said the KLETC problem is with students who are clever and mathematically talented. These students analyze the testing requirements of the 14 week basic training course that includes nine exams one of which is the comprehensive final exam. Some students realize that as long as they do well on eight tests they don't have to score well on the ninth and final exam but they will still pass the course. These students don't persevere through the entire course as they should with the consequence being low scores on the final exam or even failure yet they are able to graduate and become certified law enforcement officers.

It would be an embarrassment to KLETC and the Commission if it became known in the course of discovery in a potential law suit that the officer failed his final comprehensive exam but graduated and was certified as a law enforcement officer anyway. To avoid this scenario in the future Resolution Number 08-001 is offered. The resolution proposes the adoption of an average score of 70% on all examinations and tests by trainees and the adoption of a weighted average formula for calculating the average score on all examinations with thirty-three percent (33%) of the average score based upon the final comprehensive examination and the remaining sixty-seven percent (67%) based upon all other designated examinations and tests.

Analysis of the impact of this formula on students for the past five years revealed only three students that would have been affected. It is highly likely that these students could have performed better had they known the final exam was weighted and would count for a greater portion of their grade.

Motion made by Commissioner Seck and seconded by Commissioner Steed to approve Resolution Number 08-001. The motion carried unanimously and Chairman Williams signed off on it.

Executive Director Culp brought forward concerns from the Investigatory Committee comprised of Commissioner Odell, chairman and Commissioners Jarboe and Ralston. The committee meets infrequently due to time and distance constraints and other factors may also prevent the initiation of an investigation. For example, an officer in Dodge City Kansas allegedly committed a murder, stole a Durango and was captured in Colorado. The Dodge City Police Department terminated him and he's in jail but that does not affect his certification. He's inactive but he's still a certified Kansas Law Enforcement Officer. The Commission's Investigatory Committee can't begin an inquiry as it would interfere with a criminal case.

A second example involves a police officer who killed someone, pleads not guilty to justified homicide and bailed out of jail. He was free but suspended from his job and terminated pending his due process rights. While out on bail he could have sought employment elsewhere, the Commission's status would show him inactive but certified. Believing these situations are not representative of the Commission's desire to certify upstanding individuals Executive Director Culp conferred with counsel and drafted a motion permitting temporary suspension of certification by the investigative committee for exigent circumstances pending the next meeting of the full commission at which time the temporary suspension can be voted on by the entire commission. It's much easier to get a hold of two committee members than the entire commission to implement a temporary suspension of certification under conditions of compelling community interest. Commissioner Seck asked if the motion would state a felony charge, Executive Director Culp explained the conditions would be defined as emergency or exigent circumstances in response to questions from commission members.

Counsel Beck explained the Administrative Procedures Act governs this process; the emergency process to suspend a law enforcement certification already exists. This motion delegates the authority to do so to the investigatory committee. The case of exigent circumstances could be determined by any commissioner and brought to Executive Director Culp's attention or a member of the Investigatory Committee.

Commissioner Odell read the motion "KS♦CPOST delegates to the investigative committee authority under KSA 74 5617C to suspend the certification of law enforcement officers in emergency proceedings when and to the extent necessary to prevent immediate danger to the public health safety and welfare and in accordance with due process requirements for emergency proceedings in the Kansas Administrative Procedures Act."

Discussion followed concerning the feasibility of Commission certification suspension when the officer involved in a problem incident has been placed on suspension with pay by his commanding officer. Commissioner Breshears expressed concern about the broader practical application of this policy and suggested that at a minimum a felony charge be set as a threshold for temporary suspension of certification. Executive Director Culp made a case for the need to immediately invoke the temporary suspension with lesser charges such as domestic violence. Director Pavey explained the history of KS♦CPOST saying in the past when charges were filed against an officer no emergency

action was taken because the Commission waited until the case was prosecuted. The old system allowed the law enforcement officer to remain certified until a decision was made by the courts.

Chairman Williams stated he agreed with delegating authority to the investigatory committee and the felony threshold as long as lesser charges could also be investigated. Commissioner Breshears gave an example of officers on the Kansas City Kansas Police Department

Commissioner Breshears offered an amendment to the motion saying at a minimum a felony charge would prompt a suspension but discretion could be used for lesser charges. However, upon rereading the motion he withdrew his amendment. The motion was seconded a Commissioner who did not identify himself. Motion passed on unanimous voice vote.

Executive Director Culp announced he would be taking the next two weeks off for vacation but he would remain available for phone calls if needed. Chairman Williams commended Commissioner Seck for his 36 years of service to law enforcement upon his retirement from the Kansas Highway Patrol. Commissioner Seck said it had been a pleasure to be associated with the members of KS♦CPOST as they were men and women of true integrity and he was proud to have been associated with people of this caliber.

Chairman Williams called for any other comments. Commissioner Gent said the meeting had been enlightening and the first time in his 32 years of law enforcement to be connected with colleagues of this high quality. He stated he got a lot out of the discussion and feels the Commission is working on timely topics and issues necessary for providing guidance to various departments within law enforcement agencies. He thanked Governor Sebelius for his appointment to the board.

Chief Mathies of Edwardsville attended the Commission meeting as a member of the public and commented the meeting had been informative and he appreciated the opportunity to attend. He also commended the Commission's choice of Commissioner Gent.

No date was chosen for the next Commission meeting. Executive Director Culp said he would send out a notice with a range of dates and select the date that most could attend. Location was not set but it could be at the new KS♦CPOST office space.

Motion for adjournment was made by Commissioner Odell and seconded by Commissioner Gent. The motion passed unanimously.