

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

Commission Meeting Minutes
KS•CPOST Office - 1999 N Amidon Suite 350
Wichita KS
April 9, 2009

Attendees:

KS•CPOST Members Present	KS•CPOST Staff
Commissioner John Carmichael, Chairman	Steven R. Culp, Executive Director
Commissioner Richard Barta	Eric Williams, Legal Counsel
Commissioner Robert Blecha	Vicki Mork, Administrative Assistant
Commissioner Sam Breshears	Amy Kirk, Central Registry Manager
Commissioner Dean Bush	
Commissioner Frank Gent	KLETC Staff
Commissioner Ellen Hanson	Ed Pavey, KS Director of Police Training
Commissioner James Jarboe	John Green, Associate Director
Commissioner Terry Maple	Dave Warry, Assistant Director
Commissioner David Miller	Mark Damitio Deputy Assistant Director
Commissioner Vernon Ralston	Mark Bomgardner, Deputy Assistant Director - IT
Commissioner Steven Stowers	Lisa Webster, Public Service Administrator
Guests	
Jackie Williams	Gary Steed
Mr. & Mrs. Bob Odell	John Davis

Call to Order

Chairman John Carmichael called the meeting to order at 1:12 pm and led the Pledge of Allegiance and roll call of commission members. All commission members were present. In view of the new commission chairman and two new commission members self introductions were made by everyone in attendance.

Presentations and Recognitions by the Commission

Chairman Carmichael asked Executive Director Culp to present awards to outgoing Commission members: retired Sheriff Bob Odell; retired Sheriff Gary Steed; and former Commission Chairman Jackie Williams. All were congratulated, thanked for their service and presented with a plaque commemorating their service. Retired commissioners Bill Seck and Larry Welch were unable to attend today and will receive their awards at a later date.

Chairman Carmichael stated, he would entertain a motion to permanently and openly display the commissioner's and staff's plaques/awards in KS-CPOST hearing room if it was desired by the recipient. It was so moved by Commissioner Hansen and seconded by Commissioner Barta, the motion passed unanimously.

Approval of the Minutes from February 5, 2008

Chairman Carmichael asked for approval of the minutes of February 6, 2008. Saying they were quite extensive he allowed a few minutes for review and any additions, corrections or amendments. Hearing none and allowing for future corrections he asked for a motion to approve, Commissioner Ralston moved the minutes be approved as published and seconded by Commissioner Breshears. The motion passed unanimously.

KS-CPOST Agency Report

Executive Director Culp began the presentation with the KS-CPOST organizational chart. He noted the Commission Sub-Committee assignments will be dealt with later in the meeting. The solid blue lines on the organizational chart connect to the employees who work for and report directly to Executive Director Culp while the dotted lines show the Commission prerogative, advice and counsel on matters of concern for the Commissioners from KS-CPOST executive director and counsel.

He continued providing a 'Snapshot' of the agency the document contained in the notebook was created to augment the budget process. It included agency goals and the proposed budget reductions for FY '09 and '10 due to the State's budget crisis. He feels the agency will not be impacted too severely because of budget cuts. Also the funds remaining in the KS-CPOST budget from prior years will be carried-forward, the estimated \$500,000 is earmarked for some expensive projects.

Executive Director Culp presented a KS-CPOST Revenue Funding Report from 7-1-2007 through 6-30-2008. Total funds of \$663,743.27 were submitted to the State Treasurer's Office for the agency during this time period, averaging \$55,311.94 per month. This amount is more than adequate for the agency as expenditures during the same time period, FY '08 totaled \$341,563. Midyear funding report for FY 09 shows a decrease of \$15,247 over the same time period of the prior year; however the monthly average of \$54,918.76 is an adequate funding level as monthly expenses for KS-CPOST average \$53,000 each month. However, Culp predicts reduced revenue for the remaining half of the year. This national trend is a result of reduced traffic enforcement due to budget cuts, staff attrition and hiring freezes.

Questions were asked about the peak of monthly docket fees in October 2008, nearly \$80,000 was received. Many possible explanations could pertain, even though agencies are to make monthly payments by law, it doesn't always happen. Payment records are inconsistent, reduced traffic enforcement would mean reduced fees and Wichita has missed the deadline for their monthly payment. Comparing monthly revenue for 2007, 2008 and 2009 shows increases in general, however Culp anticipates 2009 revenue to be \$20,000 less than last year.

Executive Director Culp explained agency travel expenses, due to the oversight nature of the agency travel is a part of that mission, attending conferences is a way to reach out to multiple agencies in a cost effective way. The travel expenses for FY 08 were \$4,651.64 while FY '09 expenses are \$7,143.43 but that does not include the entire year. Moving expenses for FY 08 were \$105,536.44 and they continued in FY 09 but at a lesser rate of \$38,950.95.

Reporting on the status of law enforcement in Kansas Executive Director Culp referred to a graph showing a steady increase in the number of full time certified Kansas law enforcement officers between 2000 and 2008. In 2000 there were 6,742 in Kansas and now there are 7,518 with no trend to decrease. The increase has affected the Kansas Law Enforcement Training Center and Director Ed Pavey exercised foresight and judgment in executing an expansion of the facility.

Executive Director Culp directed attention to the following graphs: the Number of Full Time Officers; and the Number of Law Enforcement Agencies. The Number of Full Time Officers shows that 49 per cent of all law enforcement agencies in Kansas consist of 5 or fewer officers; 24 per cent of agencies have between 6 and 10 full time officers; agencies with 11- 15 officers comprise 6 percent; those with 16 – 25 officers are 9 per cent of all Kansas agencies; only 6 per cent of agencies in Kansas have 26-50 officers while 3 per cent have 51-99 full time officers and just 3 per cent of Kansas agencies employ over 100 full time officers.

The agencies employing the 7,518 full time peace officers are comprised of 267 departments under municipal jurisdiction; 104 are sheriff's offices under county government; there are three Departments of Public Safety and 62 other groups are affiliated with State of Kansas agencies, Indian tribes, or railroad police. This concluded the Director's report. Commission Chairman John Carmichael called for questions and hearing none asked for a motion to accept the Executive Director's agency report. Commissioner Gent so moved and Commissioner Hanson seconded the motion which passed unanimously.

Reports on Legal Issues

KS-CPOST Counsel Eric Williams stated his report would cover several requested issues. He began with the basics of Kansas Open Meetings Act (KOMA) and Kansas Open Records Act (KORA). Public policy in Kansas requires meetings be open to the public because representative government depends upon an informed electorate. Definition of a meeting is a gathering or assembly either in person or through the use of a telephone or other medium on interactive communication.

The Kansas Attorney General's office receives complaints about violations in three areas of public meetings:

- special meetings and concerns about the notice for the meeting and the subject matter discussed;
- executive sessions and the motions and subject matter; and
- serial communications concerning gatherings of less than a majority.

Special meetings may be called but notice must be given to any person who requests such, and KOMA requires the notice to be "reasonable," there can be no subject matter restrictions and agendas, if drawn up, must be provided to anyone upon request.

For an 'Executive Session' to occur an open meeting must be convened and an open, formal motion requesting the executive session presented, seconded and carried and noted in the minutes. No binding action may be taken during the session but consensus is allowed.

1. The motion for executive session must be very definite and include the following:
 - a. The specific justification for the closure of the open meeting,
 - b. The subject matter of the executive session as defined by the statutes which are as follows:
 - i. Personnel matters of non-elected personnel to protect their privacy; this applies to employees only, not elected officials, contractors or appointments to boards and commissions; may also include discussion of applicants for employment.
 - ii. Consultation with the attorney of the body; the attorney must be present; the communication must be privileged; and no other parties may be present.
 - iii. Employee-employer negotiations; formal negotiations not general employee meetings or discussions.
 - iv. Discussion of confidential data relating to financial affairs or trade secrets or corporations, partnerships, trusts and individual proprietorship .
 - v. Matters affecting a student, patient or resident of a public institution unless the person involved requests a public hearing.
 - vi. Preliminary discussions relating to the acquisition of real property, not the actual sale.
 - vii. Security measures
 - c. Time and place of resumption of the open meeting.

There has been a change in the area of Serial Communications; Senate Bill 135 has been passed and signed by the governor to become effective 7-1-2009. Interactive communications are defined as a series of emails, telephone calls or text messages which collectively involve a majority of the membership of the public body or state agency and attempt to avert the open meetings act by reaching agreement on a matter that requires binding action to be taken by the commission as a whole. The Kansas Attorney General's Office is in charge of investigating and enforcing KOMA complaints concerning state agencies.

Eric William explained the Kansas Open Records Act is something all law enforcement agencies deal with on a regular basis. The presumption is all records shall be open for inspection unless otherwise provided in this act. The Freedom of Information Officer is the person responding to an open records inquiry, for KS-CPOST that would be Executive Director Culp. He decides what information is provided.

A request for public records can include any recorded information regardless of form, as long as it is maintained or kept. This would include written records, photographs, computer data, and emails. The request does not have to be a special form but it does have to be written and the requestor does have to provide identification and certify that names and address received will not be used to solicit for sales.

A response is due to the requestor within 3 days. This does not mean the information has to be provided within that time but rather an acknowledgement should be provided that the request was received and is being reviewed and the response will be provided in a reasonable amount of time. If the information cannot be provided written notice will be given which includes the reason with specific citations.

There are exceptions which specifically exempt records that are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds. Other acts and rules are consulted to determine if a record is mandatorily closed such as K.S.A. 2006 Supp. 45-221(a)(1). An outline at www.ksag.org provides specific federal and state statutes.

Discretionary closure of some records is allowed by K.S.A. 2007 45-221(a). Three reasons include personal privacy, security, and internal communications while policies are developed or administrative procedures are underway. Personal privacy does not exclude providing names of employees, positions, salaries or actual employment related contracts or agreements and length of service. K.S.A. 2007 Supp 45-221(a)(4).

However, performance ratings, disciplinary actions, salary deductions, employee home address, photographs, letters of recommendation, information associated with ADA or other records containing personal information that would constitute a clearly unwarranted invasion of personal privacy or pose a risk to a person or is not of legitimate concern to the public is protected.

Security is another reason why records may not be provided. It is not required to reveal the identity of an undercover agent or informant nor provide criminal investigation records. Also protected are records concerning emergency or security information or location of a safe house.

Many types of internal communications, such as notes, preliminary drafts, research data being used for analysis, unfunded grant proposals, memos, and other records proposing policies or expressing opinions are also protected unless they are identified or cited in a public meeting or listed on the meeting agenda. Attorney work product is protected as are records privileged under rules of evidence unless the holder of privilege consents. Agencies may charge reasonable fees

for copying and staff time involved in the preparation of information including redacting information that remains closed. The fees may be estimated and collected in advance.

Chairman John Carmichael stated he requested the review of KOMA and KORA because he wanted the commissioners, who occasionally gather socially at professional meetings, to remain in compliance of KOMA. He thought the law used a certain percentage of a quorum as a rule. It concerns him as he knows of individuals, such as county commissioners who have been fined or sanctioned after casually gathering together at a professional meeting and a majority of a quorum assembled and then talk turned to the public's business.

It was suggested that a quorum for the KS-CPOST Commission would be one more than half of the twelve members or 7 but uncertain if that meant a majority of a quorum was 3 or 4 people. This concern could also apply to the matter of serial communication if an email were forwarded on to 7 or more members. Executive Director Culp interjected that he required all communications to be sent through and by him and he would insure the KOMA and KORA rules and regulations would be upheld.

Chairman Carmichael also reminded everyone that emails sent from either home or business address could be subject to Open Records requests. In view of the confusion concerning what is a KS-CPOST quorum and a majority of a quorum the chair asked KS-CPOST Counsel Eric Williams to research and answer these questions definitively. Eric said he believed a quorum for KS-CPOST was 7 members and a majority of a quorum would be 4 so 3 or fewer members could gather without repercussion. [After the break in the Commission meeting Eric Williams reported that he checked with Michael Smith in the Attorney General's office and was advised absent any serial communications no more than 6 people could gather and discuss Commission business without violating KOMA.

Eric Williams then reported on the County Consolidation Bill, Senate Bill 198. This bill would allow the governor to appoint a 12 member study commission to reduce the number of counties in our state to 13. The bill was referred to a Local Government Committee, withdrawn and sent to Ways and Means, withdrawn and sent back to Local Government. It was set for hearing back on March 2nd. One newspaper reported that Senator Chris Steineger's proposal to reduce Kansas counties to 13 got a cool reception. Eric doesn't think the bill will come out of committee to advance.

Next he reviewed the matter of prosecutors and firearms, Senate Bill 19 traveled through various committees too but it passed and is awaiting the governor's signature. The Conference Committee Bill authorizes the United States Attorney and his/her designated assistants; the Attorney General and any designated assistants and the County Attorney and designated assistants to carry a concealed firearm. The bill clarified the chief judge may determine any restrictions and prohibitions of the practice in the court house of that judicial district. Certain elements are required for security measures such as training, firearm storage if firearms are not permitted and appropriate signage.

The Kelsey Smith Act is the Senate substitute for House Bill 2126. The bill is now before the Governor for his signature. The bill requires telecommunication carriers to provide information about the location of the telecommunication device of a user of the carrier's service if requested by law enforcement in order to respond to a call by emergency services or respond to an emergency situation that involves risk of death or serious bodily harm. The bill also authorized the KBI to collect all necessary emergency contact information from telecommunication carriers and distribute it to law enforcement agencies across Kansas.

Senate Bill 87 deals with specifically KS-CPOST and other administrative agencies; it amends the Kansas Administrative Procedures Act which provides guidelines for KS-CPOST to conduct business and hearings. It also pertains to the Judicial Review and Civil Enforcement Act. The bill limits the information that can be disclosed regarding the victim of a crime, amended the rules of evidence, and expanded the prohibition on ex parte communications to any person who served in an investigator or prosecutor capacity.

Another important change applies to the process of judicial review. In the past once the commission made a decision a person could request judicial review after exhausting all administrative remedies available within the agency whose actions are being challenged. The new section states the court may review a petitioner if all administrative remedies have been inadequate or the remedies may result in irreparable harm. What exactly that means will be determined by the courts. This could impact KS-CPOST if passed, increasing involvement in litigation at an upper level.

Report on Sanctions and Investigations

Executive Director Culp began the report saying the committee had met earlier this day. He then directed attention to the handout showing all law enforcement officers that had been sanctioned by the Commission over the years. He asked if there were any questions.

Hearing none he moved on to the matter of 2008-2009 provisional certification revocations for ten officers. Their names as follows:

Brandon M. Weide – Woodson County Sheriff's Office
Thomas Case – Garden City Police Department
Jordan B. Douglas – Garden City Police Department
Gina D. McLeod – Anderson County Sheriff's Office
Jeremy C. Lacey – Caldwell Police Department
Kameron J. Bissell – Udall Police Department
Daniel A. D. Snow – Conway Springs Police Department
Christopher A. Moore – Neosho County Sheriff's Office
Timothy G. Dimick – Greenwood County Sheriff's Office
Gabriel W. Kneibler – Garnett Police Department

The Investigative Committee submitted and recommended revocation of certification for four officers. They are as follows:

- Christopher Taha – Dodge City Police Department - convicted and sentenced for two felonies; murder, stole a vehicle and fled to Colorado

- Scott Higgins – Labette County Sheriff’s Department – surrendered his certification upon being charged with 10 counts of misdemeanor theft from evidence property room.
- Dennis Nowlin Chief of Ellis Kansas – charged with and plead guilty to lewd and lascivious behavior after being found partially disrobed in an adult theater by Wichita Vice Detectives. He voluntarily surrendered his certification.
- Robert Lane – a detective from Kansas City KS but was charged as an Edwardsville City Council member with 4 counts of misdemeanor misconduct, conspiracy, compounding a crime, official misconduct and moral character. He signed an agreement with the Attorney General to voluntarily surrender his law enforcement certification.

At the conclusion of the report Chairman Carmichael asked if there was anyone who wanted to discuss these or handle any of the cases separately. Hearing none he asked for a motion to accept the recommendations of the disciplinary committee. The motion was made by Commissioner Breshears and seconded by Commissioner Maple. Before the vote Executive Director Culp asked for a legal opinion regarding whether Commissioner Blecha should vote as the KBI investigated Robert Lane. The vote carried unanimously and Commissioner Blecha abstained.

Question was raised as to how many cases were pending, Executive Director Culp said there were a lot, he explained that two cases were very close to completion and decertification while eight other investigations were pending and the report would be given to the committee soon. He continued saying there was a back log of cases from years past that needed review but doubted they would result in official clearance. Executive Director Culp stated he does not believe any of the cases involve active officers.

Municipal Training Report

The Municipal Reimbursement Fund Sub Committee, comprised of Commissioners David L. Miller; Steven R. Stowers and Ellen T. Hanson, met. Commissioner Miller, Committee Chairman reported there was \$265,534 available to reimburse cities that obtain their own basic academy law enforcement training through sources other than the Kansas Law Enforcement Training Center. In this capacity there were 83 full time academy graduates from 560 hour programs and five graduates who received reciprocal training, a 40 hour program.

The formula reimburses programs by dividing the total number of training hours, 46,680 by the available funds for an hourly figure of \$5.6884 for a total FY 08 disbursement of \$265,534.15 leaving \$4.26 to carry over to FY 09.

Funds were disbursed in the following amounts to these agencies:

- Johnson County Police Academy - \$103,073.65
- Kansas City Police Department - \$76,452.00
- Lawrence Police Department - \$15,927.50
- Wichita Police Department - \$70,081.00

Ed Pavey, Kansas Director of Police Training explained the system for the benefit of the new Commission members. In 1994 the Kansas Law Enforcement Training Center requested an

increase in training funds from the municipal court docket fees. There were behind the scenes negotiations and the committee members from the larger cities agreed to increase funding for KLETC but requested something in return. An additional dollar was added to the docket fee above KLETC's request with the understanding those funds would reimburse the municipal academies that generate a lot of the docket fees. Sheriff's academies and the Highway Patrol academies are not included in the funding.

Legislation was passed in 2006 creating KS-CPOST as a standalone agency. However, an oversight occurred with this municipal training fund, leaving it under the jurisdiction the University of Kansas as one of the accounts tracked by KLETC. At this time Executive Director Culp must inform Director Pavey that these disbursements have been approved by the Commission on Peace Officers Standards and Training and he will authorize KU to cut the checks and mail them.

During this next year efforts will be made to coordinate with KU and the State of Kansas budget department to transfer this account over to Executive Director Culp and KS-CPOST. He will provide the oversight and authorization for the issuance of the checks in accordance with the Municipal Reimbursement Sub Committee's recommendations.

Question was posed as to why the Topeka Police Department didn't receive any funds and it was explained no class was held during the fiscal year. Query was made asking if a new recruit of a sheriff's office or campus police could attend the Topeka Police Department's training program and would Topeka PD be reimbursed. It was explained by Executive Director Culp and Director Pavey that municipal academies are limited to law enforcement staff from the county in which they are located. Sheriff's officers and campus officers may attend only if they are from that county or if the department has a long standing arrangement permitting such. In the case of the Topeka Police Department Academy located in Shawnee County law enforcement recruits from Public Safety staff at the Topeka Airport, staff from the Adjutant General's office, 501 police and any agencies' recruits who had been attending the academy prior to the policy formulation may continue to do so.

Clarification was sought concerning Sedgwick County Sheriff's office recruits attending a combined academy in Wichita and whether Sedgwick County would underwrite the training for everyone in the class. Director Pavey explained that only the Wichita Police Department would be reimbursed for their recruits from this fund and not the Sedgwick County Sheriff's Office because it's the municipal court that generates the funds not the district court. If the Sedgwick County Sheriff chose to send his recruits to KLETC the State of Kansas would fund the training in that case. Director Pavey said the decision to finance only municipal academies from these municipal court funds was made by the Kansas legislature.

Chairman Carmichael asked for any further questions, hearing none he said he would entertain a motion to approve the report, advise the director to make the necessary report to Director Pavey of KLETC authorizing the municipal payments. So moved by Commissioner Barta and seconded by Commissioner Gent. The motion carried unanimously. A break was taken.

Report from the State of Kansas Police Training Director Ed H Pavey

Director Pavey began his report saying that KLETC had 37 full time equivalent (FTE) positions at the center and 3 part time positions which are in the maintenance area. There are also several contractual positions, in the cafeteria, security, cleaning service and some outside vendors for the laundry. Since the last meeting a third person has been added to the maintenance staff, in anticipation of increased duties with the opening of the new facility. Darrin Beck, who left KLETC to teach school about a year ago is returning in a newly created position effective June 1, 2009 as Chief Academic Officer Deputy Director. He'll devote 70 per cent of his time to curriculum and 30 per cent of his time to the legal area. Gary Steed has joined KLETC to work with Mark Damitio in Continuing Education. He brings a wealth of experience and will be taking training all over the state of Kansas.

Regarding the Capital Improvements for KLETC, Director Pavey reviewed the status of the project that is adding a new dormitory and a multipurpose room. Projected completion date is April 23rd and there's a big workforce present putting the finishing touches on the project. Mark Bomgardner has been working with technical folks from Topeka installing the sound system in the new multi-purpose center. The new front entrance off of the circle drive will serve as the KLETC public entrance. The new auditorium has a bank of 2nd story windows to let in natural light and because of the height they are being outfitted with electric blinds. The circle drive surrounds the flag pole set in the center of a star. The area will be beautifully landscaped and lots of parking has been included. The architect has been notified that for the multipurpose center and large hall will be called the Integrity Auditorium. The segments that make up the auditorium will be called Trust (Integrity I), Honesty (Integrity II) and Courage (Integrity III).

Director Pavey displayed the artist's rendering of the new driving course. He said the project was recently sent by the architects to the State Division of Facility Management. It should go out for bid in the next few weeks and groundbreaking is expected to be sometime in mid-summer. Project budget is \$4.5 million. The existing tarmac will be cleaned up. Just above the tarmac two buildings are shown, one is a training building for the EVOC and will house the simulators and office space. The other building is a vehicle storage building to house the EVOC driver training fleet of 14 vehicles used. Nearby is the new skid pad with an irrigation system included to flood the system. As an alternate bid a recovery system is planned for the water. Adjacent to this is the new driving course which contains many features including a roundabout, an elevated ramp simulating an interstate, a railroad crossing, city grid driving, black top, asphalt and gravel.

The first graduation in the new facility will be August 28, 2009. The Attorney General will deliver the commencement address and everyone is invited to attend. Director Pavey said he was unsure about how to handle the dedication and ground breaking ceremony because many folks at the state level are being laid off or furloughed. But he feels it's not in the best interest of KLETC to spend a lot of money sending out invitations and celebrating with cake and punch while people are losing their jobs. A possible alternate plan may include a ribbon cutting in conjunction with the 203rd Graduation Ceremony in August. Once plans are developed everyone will be informed.

There is a carpet issue in the new dormitory. Three floors of carpet tiles have been installed and some seams are showing that are not supposed to. The Law Company, the general contractor, the architect and KLETC are fighting with the vendor and the manufacturer. Hopefully a resolution will be reached soon and it won't delay the opening of the new facility.

The graduation for the 201st Basic Class, will be held on April 17th and will feature Assistant Special Agent in Charge Dan Jones of the FBI as commencement speaker. The 202nd Basic Class graduation is scheduled for June 19th with Commissioner Barta giving the commencement address.

Director Pavey reported that Lawrence Municipal Court overpaid their Municipal Court fees by \$24,911 of which \$5,400 is the KS-CPOST share. These funds will be repaid to Lawrence. Overall docket fees are down by only 1 per cent this year. The FY '10 budget for KLETC will be \$5.9 million, less than originally anticipated. EVOG vehicles were eliminated from the budget along with a few other project expenditures in order for KLETC to stay within their means.

FY '08 statistics show that 406 officers received basic training at KLETC; 5,324 officers across Kansas received continuing education classes presented by KLETC staff; satellite academies which included municipal academies in Wichita, Lawrence, Topeka, Kansas City Kansas, Johnson County, and the Highway Patrol trained a total of 169 officers. These statistics show that KLETC provided basic training to 7 out of every 10 officers in the State of Kansas.

Director Pavey began his report on student officer issues by directing everyone's attention to the green sheet included in his packet. It is the University of Kansas, Kansas Law Enforcement Training Center Pre-Training Form Part IV which includes the Alcohol Prohibition Rule, Authorization to Release Records, and Voluntary Self-Identification and Disability Disclosure. He explained he came to the Commission in 2005 because there was a problem with students and alcohol. The issue was thoroughly examined and the policy of no alcohol between Sunday night arrival and Friday 5 pm was discussed and endorsed by the Commission, along with Law Enforcement agencies and organizations.

The policy was adopted by the Commission by resolution and the alcohol prohibition rule was implemented as part of the pre-training evaluation which must be completed prior to the officers' arrival at KLETC. The form explains the rule, the penalty and the rationale behind the rule and there is a place for the officer to sign certifying they read the rule, understand the rule and they understand that any violation of the rule may subject them to dismissal from the academy. There is also a place for the agency administrator or their designee to sign stating they feel confident the officer understands the rule and the penalties for violation.

On Friday the 13th of February it came to the attention of staff/administrators at 2 am that there were 4 students seeking entry into the dormitory after hours. They had been out drinking in preparation of their graduation the next day. Jack Leon was called at home and he immediately came in and administered PBT tests. Two students registered 1.3; one was .08 and the other was .06. All four admitted they had been drinking. Two of them had received permission from their

agency to stay off campus that night with their families in advance preparation of graduation. The agency had faxed the request on letterhead to KLETC.

The students were subsequently dismissed by Associate Director Green and Assistant Director Warry. The letter stated they had 10 days to appeal the decision to Director Pavey. Three out of the four filed appeals, one retained a law firm from Hutchinson to represent him and the other two were represented by their City Attorney. Their dismissal was upheld by Director Pavey. According to the Kansas Administrative Act they have 30 days from the time of the final decision by Director Pavey to file an action in Reno County District Court asking for judicial review.

The City Attorney notified KLETC they will seek that review for their two employees but KLETC hasn't been served yet. Nothing has been heard from the law firm representing the other student who appealed. Nothing at all has been heard from the fourth student, no appeal was requested. If a judicial review occurs the Commission may be asked to submit an Amicus Brief showing their support of the policy. This is the first time disciplinary action has been taken over violation of the alcohol prohibition since implementation 2005. However it's possible there have been other student violators that were not caught.

It was asked if provisional certification had been revoked for these students and Executive Director Culp answered in the affirmative saying no appeals had been filed in response to that action. Director Pavey interjected the City Attorney, the Council and the City Administrator of this particular city feel that KLETC overreacted in response to the student drinking. However, they signed off on the policy in advance and they knew the rule and it is reiterated during Student Orientation by Assistant Director Warry. Director Pavey feels confident that KLETC will prevail in the judicial review.

The last Friday of the Basic Training session wraps up with course work including moot court, another class and the graduation ceremony all of which are considered and identified as part of the curriculum of Basic Training. It was pointed out the drinking infraction by these students was not a glass of wine while dining with their families in celebration of their graduation. But rather a conscious effort to party as these students went to McGraw's Cowboy Casino in Hutchinson, a bar and pool playing place and they got drunk. Commissioner Barta said one of the four students was sent by his agency and he wanted to confirm that no appeal was received on the person's behalf as he was terminated. Director Pavey confirmed that was the case.

Director Pavey directed attention to the bottom of the form; this section is advance preparation, trying to learn about students that arrive at KLETC that may need an ADA accommodation. The most typical accommodation requested has to do with testing; usually extra time in a quiet environment is sought. Upon receipt of their documentation Associate Director Green and Assistant Director Warry review the request and the person may receive a few extra minutes on the exam. With this issue being identified prior to the start of school it allows for a more timely response to the student's accommodation request.

Director Pavey's report continued with news of another student that was dismissed two weeks ago by Associate Director Green and Assistant Director Wary for plagiarism and deceit. An

instructor reviewing the student's work recognized his paper as one submitted in an earlier class. It was work that had been submitted by another student from the same agency a year or so before. When the student was called into a meeting and questioned about his work his responses were untruthful. He was immediately dismissed. The two week period for appeal expired last Friday with no response from the student. Of course he could sue if he wanted to.

Another student had been successful in his academic efforts but when it came to the Defensive Tactics / OC Spray Day, despite being suited up he declined at the last minute and he left the academy. Every student that is sprayed is videotaped as part of the training course. There were recent incidents in both Wichita and Kansas City involving officers being sprayed as they responded to a call so it's an important part of the training.

Other items of interest happening at KLETC include Deputy Assistant Director Damitio working with the Governor's office on a \$175,000 grant to "Stop Violence Against Women." Commission Chairman Carmichael has been in attendance at KLETC on three different occasions and plans to return. He has spent entire days observing training classes.

Director Pavey said KLETC staff had been actively involved with the Governor's Task Force on Racial Profiling and the training subcommittee. In fact there was a meeting held at the KSCPOST Commission Hearing Room a couple of weeks ago attended by Executive Director Culp and Director Pavey and others. KLETC will work again this year with Commissioner Terry Maple, Superintendent of the Kansas Highway Patrol and Trooper Herman Jones facilitating the state wide training on racial profiling for the agencies that lack the resources to present this training. Deputy Assistant Director Mark Damitio will coordinate the classes and work with Herman Jones to present that training. Director Pavey has suggested in testimony to the Governor's Task Force that they hire a dedicated full time person to provide the yearly mandated Racial Profiling training classes. To be funded out of the Task Force budget. It was suggested that KLETC hire the educator but they declined but offered office space, equipment and supplies in support of the position. This class is important because 49 per cent of the law enforcement agencies in Kansas have 5 or fewer officers. These small agencies do not have access to quality training except for that provided by KLETC and supporting agencies.

During committee negotiations for the 2008 Stalking Law in the last session there was interest in mandating annual training however in the end the law read "training may..." and KLETC is working closely with the small agencies to provide quality training about the stalking law in conjunction with the Attorney General's staff. There are plans to continue that training in FY '09.

Director Pavey reported he had been asked to serve on a Board of Regents Committee but Deputy Assistant Director Mark Bomgardner will serve on his behalf. The Community Colleges have been asked to review what they're training in the technical professions to make sure it matches what people are doing out in the field in these technical areas. Linda Morgan from the Garden City Community College is going to spend two weeks at KLETC shadowing instructors and going over programs to make sure the community college Criminal Justice teaching is the same as what we're teaching at KLETC.

There is a training element in Senate Bill 19 for County and District Attorneys Carrying Conceal in Courthouses that involves KLETC designing the training for the prosecutors. The funding for training has been removed from the bill, originally the prosecutors were going to pay for their training but that provision has been taken out. While the training is still in the development stage it's anticipated it will be limited to 8 hours or less. It is unknown how many people will want to be trained and there are conflicting views about who should be trained.

Director Pavey completed his report saying there is a police instructor position open at KLETC. It will be open through next week. All interested applicants are welcome and encouraged to apply. An inquiry was made regarding an existing policy on stalking at KSCPOST. Executive Director Culp said there these policies but that topic would be was scheduled to be addressed under the agenda's new business, not the KLETC Director's Report.

Old Business from Commission staff

Executive Director Culp reported that he had two unfilled investigator positions and a staff support position. However he was told at the beginning of the budget process that he might have to lay people off so he was reluctant to hire anyone for these positions until the KS-CPOST budget was finalized. As it turns out the positions weren't cut, the budget for FY'10 will be finalized around mid-May and it's a priority to get the positions filled as the Investigatory Committee knows there's plenty of work to be done. Executive Director Culp explained he was considering hiring part time investigators with investigatory expertise who are retired from law enforcement and therefore wouldn't require intensive training.

Old Business from the Commission

Chairman Carmichael called on Commissioner Hanson to provide a report on racial profiling. She began with an overview of Senate Bill 179 saying a number of changes had been made by the Governor's Task Force on Racial Profiling. The task force is made up of a collection of people from law enforcement, African American affairs and Latin American affairs. The law enforcement faction and the other factions on this task force were very far apart when it came to a number of different issues such as: the definition of what racial profiling really is; the data collection; due process and pretextual stops. It was an interesting process and gratitude is owed to Commissioner Bush, Sheriff Denning, Mike Watson, Ed Klump, and Lenexa Police Department Captain Don Crumb who were all very involved in the process.

The factions of the Task Force came together when under attack by the Human Rights Commission. Currently Senate Bill 179 is waiting for Senate and House action during the veto session. It is anticipated that the bill will come back with the only change being an extension of the Governor's Task Force on Racial Profiling because original legislation contained a sunset provision. The most contentious issues, like defining racial profiling or data collection, caused the greatest divides between task force members. Ed Klump, Mike Watson and Commissioner Bush all worked hard as representatives of KACP to collaborate with members of the task force and some progress was made.

The definition will stand for racial profiling to be the sole factor. Something very good has come out of the data collection issue. The task force has agreed to underwrite a presentation by Dr. Lori Friedel, she is a recognized US expert for racial profiling data collection. She contends that data collection isn't effective for solving racial profiling. She will talk a lot about how ineffective data collection is without a process to analyze and disseminate the information in a logical meaningful way. Her visit is scheduled for late April. She will give two sessions, one in Topeka for the task force and one in Kansas City, KS for law enforcement agencies and organizations.

Commissioner Hanson continued expressing hope that when the issue returns next year everyone on the Task Force will have a better understanding about data collection and how ineffectual it is. The HR Commission which is the hearing group for reported racial profiling complaints became disingenuous at the end of the session. Resulting in a letter sent to the Committee chairman that was inaccurate or downright false.

Legislation proposed by the law enforcement community would involve KS-CPOST in the investigative / review process after the HR Commission's complaint process. Commissioner Hanson explained that currently when the HR Commission receives a complaint alleging racial profiling an ineffectual investigation is conducted and produces a finding of racial profiling or not and that's all. Their course of action has no due process or transparency. But the proposed alternative would allow a KS-CPOST committee to fully investigate the complaint and either make a determination of racial profiling and act on that probable cause or declare it was not. An appeal process is included.

According to Commissioner Bush allowing KS-CPOST to investigate culpability would provide more consequence than the Human Rights Commission because of the authority of KS-CPOST to take away a guilty party's law enforcement certification. However, there was resistance to this change from the community because many are against 'cops investigating cops.' One of the biggest sources of disagreement between all parties is the definition of racial profiling and the phrase 'sole factor.' Alternative language was proposed saying the same thing but the vote failed. Also there are some community groups that believe racial profiling should be a felony but Commissioner Bush says that issue will be fought year after year. He was pleased the Governor's Task Force on Racial Profiling was extended and didn't expire as the law was written.

He believes the task force provides moderation to this topic which is helpful because the issue returns every year. This is "feel good legislation" and whatever passes will be voted on positively by the legislature because it's a public vote. The task force does its best to balance community thinking and law enforcement thinking on this matter. In summation this issue is not an even playing field for law enforcement and it won't ever be and annual skirmishes will continue.

Commissioner Maple said people from the task force, unfamiliar with the law, tried to write legislation that everyone could live with. For example concerning pre-textual stops it was articulated to the group the Supreme Court has upheld the process and it is the law. However some committee members don't care that it's legal and can be done within the boundaries of the

law they are against it. Two bills are pending, Senate Bill 179 is sitting on a Senate calendar and hasn't been worked and House Bill 2267 extends the life of the Task Force for two years. He continued saying he wholeheartedly agreed with Commissioner Bush that the Task Force had value. It created discussion and interaction around the issue of racial profiling throughout the state and encouraged people holding different views to understand one another. There are extreme views represented on both sides of the issue. Some of the legislation proposed would not be helpful but extending the life of the Task Force is positive. Other benefits include the state wide training on Racial Profiling for law enforcement officers developed and presented by KLETC staff and Herman Jones of the Kansas Highway Patrol.

Commissioners agree that racial profiling is a controversial topic and there are passionate supporters and detractors statewide. Director Pavey recalled the controversy present when members of the task force met for training in KS-CPOST's conference room a few weeks earlier. No one sees the controversy over pre-textual stops fading because, for instance, the Highway Patrol routinely enforces traffic laws. Many commission members are looking forward to the upcoming presentations by Dr. Lori Friedel concerning data collection of racial profiling incidents. It seems that analyzing the data is not possible and it does not reveal usable information.

Chairman Carmichael identified another area of concern regarding Federal funding for racial profiling activities and asked members on the task force about progress on the issue. It involves modifying state statutes by extending protections to passengers in automobiles stopped by law enforcement. Continued Federal funding for racial profiling activities is linked to this requirement. Both Commissioners Bush and Maple said it was still an issue. Commissioner Maple explained this funding was from a grant that was to last one more year and the requirements were part of the grant criteria. There's also a certification process that involves data collection and the governor has to certify it to complete the process. Some members are adamant that the state will qualify and receive the funding but he remains skeptical.

Chairman Carmichael asked if there was further discussion or comments about racial profiling. Commissioner Bush said this was something that law enforcement had to stay on top of. He also said according to the statute his term would expire along with several others and it would be nice to choose someone who lived closer to Topeka.

Chairman Carmichael asked if there was any other old business from the commissioners. Hearing none he said this was the time on the agenda to hold an Executive Session if necessary, the chair stated he was not aware of a need for an executive session at this time and asked if anyone else had a reason? Hearing none he moved on to new business.

New Business

Executive Director Culp directed attention to Policy Directive A-008: Policy Regarding Stalking Allegations and Policy Directive A-009: Policy Prohibiting Racial Profiling Updated: November 7, 2008 which are contained in the book and they were sent out email attachments. He also asked everyone to stay after the meeting for pictures.

Executive Director Culp also took the opportunity to express appreciation and thanks to his staff; Eric Williams, Amy Kirk and Vicki Mork for their efforts toward a successful meeting.

Chairman John Carmichael said action needed to be taken to designate a Chair pro temp. The chair would entertain a motion to designate the most senior commission member other than the chair person to serve and act as the Chairperson pro temp in the absence or incapacity of the chairperson. The pro Temp would act until otherwise determined by the chair person, In the event the senior commission member declines or does not accept for any reason the designation would go to the next most senior member. This order would continue until a Pro Temp is designated. Chairman John Carmichael said he would entertain a motion to amend that act as Vice Chair. Commissioner Gent so moved and Stowers seconded; the motion carried.

Chairman Carmichael asked if there was any other new business to come before the commission. Hearing none Chairman Carmichael called for any miscellaneous commission comments or concerns. Commissioner Hanson announced Lenexa is joining with KHP and other area agencies to host the annual training conference of the National Association of Women Law Enforcement Executives. Men are also welcome to attend this event. Complete details are available at the web site, there will be a golf tournament, and it's going to be a really good training conference.

Chairman Carmichael asked for comments from the public? Hearing none the next item is selection of commissioners for committee assignments. Chairman John Carmichael asked Executive Director Culp to inform the commission of the positions that need to be filled. Executive Director Culp referred everyone to the agency organization chart which is in the book as the committees and members are listed. The Hearing Panel Committee has a vacancy plus an alternate is needed. Commissioner Breshears will serve as the Chairperson. The Investigative Committee needs an alternate; the vacancy on the committee has been filled by the former alternate, Commissioner Stowers. The Municipal Reimbursement Committee shows Commissioner Barta as a member in error, Commissioner Hanson has been left off in error but Commissioner Stowers is a member. That committee needs an alternate. Chairman Carmichael urged commission members to contact Executive Director Culp and volunteer to fill these vacancies.

Chairman Carmichael continued with the next item of business, the selection of the next commission meeting date. The statute requires the Commission to meet once a year at Hutchinson Kansas which is the Law Enforcement Training Center. Chairman Carmichael suggests that the next meeting be held there. He continued saying the group needs to figure out how often to meet and suggested setting the dates for future meetings at this time because everyone is very busy.

Chairman Carmichael asked for input on the number of Commission meetings per year. Commissioner Breshears made a motion that the Commission meet twice a year saying more time is needed to review the many issues that are covered. Motion was seconded by Commissioner Blecha. Chairman Carmichael summed up the motion, the Commission will meet twice a year approximately six months apart as a date to be determined by the Chair after

consultation with the Executive Director and the Commissioners. No further discussion was required and the motion carried.

Chairman Carmichael asked for any further business of the Commission, hearing none he asked for a motion of adjournment. Commissioner Maple moved and Commissioner Barta seconded and the motion carried. The meeting was adjourned.