

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

**Commission Meeting Minutes
KLETC - 11009 S Hornet
Hutchinson KS 67501
August 28, 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	John Gaunt, Investigator
Commissioner Steven Stowers	Joe Herridge, Investigator
Commissioner Ellen Hanson	
Commissioner James Jarboe	KLETC Staff
Commissioner Terry Maple	Ed Pavey, KS Director of Police Training
Commissioner Vernon Ralston	Mark Damitio Deputy Assistant Director
	John Green, Assistant Director

Call to Order

Chairman John Carmichael called the meeting to order at 9:10 am, welcoming commissioners and guests. He was unable to lead the Pledge of Allegiance as there was no flag in the meeting room at the Kansas Law Enforcement Training Center. Roll call of commission members was taken. All were present except for Commissioner David Miller who had notified Executive Director Culp of his absence and Commissioner Vernon Ralston who arrived late.

Commission Chair Carmichael made brief opening remarks extending his thanks to Director Pavey for the previous evening's hospitality and the enjoyable fellowship. He also passed along Associate Director John Green's message asking those who have dormitory keys to please leave them in the basket at the front desk. Introductions of commissioners, staff and guests were made.

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

Commission Chair Carmichael explained Director Pavey's presentation was moved up on the agenda due to his responsibilities with the graduation ceremony for the 203rd Class later today. Director Pavey said his report would be short and there was no handout. He began by announcing T.K. (Tom) Bridges is a new instructor with KLETC. TK retired from the Wichita Police Department after 24 years, serving in many capacities. At the time of his retirement he was head of the Missing and Exploited Children's Unit.

His report continued with an update on the Capital Improvement Projects. Phase I is finished, it included the dorm, auditorium, reception area, courtyard and expansion of the dining room. Phase II is underway. Heavy equipment is out back moving dirt on the 140 acres that will become 1.78 mile driving course. The course will have a roundabout, elevated interstate ramp, three blocks of city grid driving, railroad crossing, and a signalized intersection. There will be a power supply and a skid pad with a water recovery system. The plan includes a training building with two class rooms and simulator rooms, vehicle storage building for 20 vehicles and currently under construction is the tactical shooting house for use with simunitions (simulated ammunitions). The front of the building will be a convenience store and the back half will be a residence there will also be a cat walk up above for the instructors to watch the scenarios unfold during training exercises.

A planned observation tower for the driving course has encountered some difficulty. The state ADA coordinator is calling for the addition of an elevator to make it handicapped accessible. The ruling is being appealed by KU to the Attorney General's office as the tower is strictly for staff and would not be open to the public. Other observation towers across the country do not have elevators. An alternate plan for observation by a handicapped staff member has been developed. Three mounds of dirt are being incorporated in the driving course to allow the individual to drive up on the mound in a car to watch the exercise. If the elevator is ultimately required then the tower would cost an additional \$150,000 - \$200,000 for the installation.

Director Pavey explained because of the large crowd on hand for today's graduation that all Commissioners need to be in the lunch line by 11:20 am in order to have lunch with the Attorney General and permit families and guests plenty of room in the cafeteria during their lunch period. After lunch the commissioners are asked to meet in the gymnasium at 12:45 pm to line up for the processional. Commissioners will be seated in two reserved rows to the left of the stage except for the chairman and the executive director who will be seated on the stage. Once the program begins the commissioners will be introduced, please stand when your name is called.

The financial report for KLETC revenue depicts stable funding, proceeds are down from last year but not as much as the projection. Overall KLETC is in good shape, the FY '10 budget is \$6.4 million, which includes the bond payment of \$1.4 million. During the past fiscal year 349 officers were trained in full-time basic training program; 24 through reciprocity; 45 through the part time program and 23 individuals took the challenge exam. Mark Damitio and Gary Steed provided and/or coordinated continuing education for 4778 veteran officers of Kansas. KLETC

staff has been very busy the past year providing 175 continuing education events and 14 basic training events. There are no recent student issues to report. Preparations have been made for the swine flu, in the event that it breaks out on campus, contingency plans are in place.

Mark Damitio has been busy working with the Governor's office preparing for the \$316,606.00 Stop Violence Against Women Act grant that KLETC will be receiving. It will be used to hire a person to present and coordinate domestic violence training throughout the state, as well as an assistant registrar to assist with class registration and some equipment to use with the training. The grant is for 24 months and the clock is ticking, the existing time frame now is 21 months left so getting this project implemented is top priority.

Director Pavey said he wanted to brief commissioners on a matter he has discussed recently with Commissioner Blecha. He continued explaining Mark Damitio serves as the KLETC representative on the Governor's Grant Council for Domestic Violence/Violence Against Women. . The council also has representatives from the areas of the judiciary, corrections, and Kansas County and District Attorneys Association (KCDA). The Council also has sub groups including a law enforcement subgroup and a corrections subgroup. Over the past couple of years they have been working on domestic violence related curriculum. The law enforcement group developed their curriculum and brought it before the entire Governor's committee for review. It was approved and KLETC proceeded to implement the training through 17 sessions of "train the trainer" classes throughout the state educating about 400 people. About three weeks ago information was received that KCDA is upset and highly concerned with the curriculum. They feel it is gender biased, and contains some components which would allow defense attorneys to question an officer's arrest.

A meeting has been set for September 17th in Topeka of the Governor's Council committee to hear from representatives of KCDA to learn what their concerns are with this curriculum. Darren Beck, legal counsel for KLETC has reviewed the curriculum and reports there are some areas that could be considered biased. One of these issues stems from the curriculum being modeled off the Federal program, "The Violence Against Women Act" which states that 85% of the domestic violence batterers are men and 15% are female. Tom Stanton, president of KCDA, called Director Pavey to discuss organizational concerns and they both agreed the meeting on September 17 would be an opportunity to review and revise training as needed.

Executive Director Culp clarified that the domestic violence curriculum is a training guideline not mandated training. Agencies may pick and choose the parts they wish to teach. Director Pavey looks forward to the meeting and resolving any issues and concerns.

Kansas Senate Bill 19 Prosecutor Carry Concealed was passed last year and the first training is scheduled for September 28, 2009. The program was developed by the Director of Police Training Ed Pavey and his staff pursuant to statutory authority. The five people enrolled in the 9 am to 4 pm class will be team taught, by Kimberly Rodebaugh, Dan Lehr, and Ian Folks.

Director Pavey shared that he received a letter signed by the Honorable James Fleetwood, Chief Judge of the 18th Judicial District Sedgwick County, Nola Foulston, District Attorney, and

Sheriff Bob Hinshaw with concerns about prosecutors being armed and advocating weapons training for them at the same level as law enforcement officers. Director Pavey said he replied that prosecutors are not law enforcement officers and as such KLETC lacks statutory authority to train them as law enforcement officers. They are being trained in compliance with the statute and the training was developed specifically for them. The final paragraph of the letter advised them if their concerns remained opting their county out was allowed by the statute.

KLETC staff will attend a Board of Regents Technical Authority Board meeting in Topeka on September 17 and 18. The topic for discussion is curriculum realignment for community colleges. The Board of Regents is requiring all community colleges to offer the uniform core classes in technical professional subject areas such as nursing, law enforcement, fire service, welding, and computer technology.

This would ensure a person beginning community college in one part of Kansas could finish in another area because of the uniformity in core classes and requirements. Each community college could offer elective classes of their choosing. KLETC is involved in this process as “business/industry” representatives to ensure graduates could receive some community college credit recognizing KLETC academy classes as equivalent to community college offerings. Currently the disparity ranges from Barton County Community College giving KLETC graduates 15 credit hours while KU will grant up to 3 credit hours. Resolving this issue is important because receiving college credit hours could be an incentive for recruits to continue their education toward a college degree.

Director Pavey concluded his report saying the Joint Legislative Committee on Building is tentatively scheduled to visit KLETC on September 6, 2009. He asked if there were any questions. Executive Director Culp said he represented KS-CPOST on the Board of Regents Technical Authority Board to determine if the core class had accounted for State of Kansas training requirements mandated for certification of law enforcement officers.

Presentations and Recognitions by the Commission

Chairman Carmichael asked Executive Director Culp if there were any presentations or recognitions for the meeting. Executive Director Culp replied there were none but asked the Commission for a directive to acknowledge former commissioner, Retired Chief of Police Frank Gent for his contributions at a future meeting. Chairman Carmichael explained that upon retirement as Chief of Police in Beloit Kansas Commissioner Gent is unable to continue his tenure on KS-CPOST. Chairman Carmichael said it would be appropriate to honor him in the future.

Approval of the Minutes from April 9, 2009

Chairman Carmichael began discussion of the April 9, 2009 minutes asking if the matter of who seconded a motion had been resolved. Administrative Assistant Vicki Mork responded the information was in her notes of the meeting and had been resolved. Calling for a motion to approve the minutes Commissioner Blecha so moved and Commissioner Maple seconded it. The

motion passed unanimously and the minutes of April 9, 2009 were approved. Executive Director Culp thanked Vicki Mork for her work on the minutes.

Report on Legal Issues

Chairman Carmichael requested a legal issues report from KS-CPOST General Counsel Eric Williams. Mr. Williams said his report concerns domestic violence and how it has been historically applied with the commission and by the commission, new case law and different interpretations. All laws and cases cited are contained in the Commission Meeting notebook of August 28, 2009. The information will be included with the minutes.

John Green, Assistant Director of KLETC related a situation that occurred during his time with the Sedgwick County Sheriff's Office. A deputy was arrested and charged with disorderly conduct Domestic Violence (DV). The disorderly conduct charge covered a wide range of behavior but one of the sub sections specifically addressed domestic violence. The deputy entered a plea to a reduced charge of disorderly conduct; the DV charge was not dismissed and refilled but the municipal prosecutor told the deputy that his plea to a lesser charge took him off the hook for a DV conviction. Administratively the judicial outcome did not settle anything because under Kansas' interpretation on this Commission it was not a violation of Kansas DV laws at that time. But the Federal law says if there is any lack of clarity in the title of the charging offense then if the complaint or information of that charge establishes a domestic relationship then it is DV.

Assistant Director Green summarized the conflict saying on the one hand we have the Commission saying no problem and on the other hand the Sheriff has the dilemma of an officer unable to possess a firearm according to Federal law. This is a bad position for a law enforcement administrator.

Chairman Carmichael expressed concern about law enforcement officers being informed of any changes in commission policy. He wouldn't want an officer who has been arrested for domestic violence to plea bargain to a lesser charge in good faith, rather than contest his DV charge only to later discover the Commission has changed their historic precedent and the Federal Law has taken priority and he can no longer legally own a weapon and can no longer be a law enforcement officer.

Executive Director Culp responded saying the majority of cases investigated concern domestic situations. He is unsure of what the reaction would be if the Commission changed their policy to reflect Federal law. It would be a very significant change for Kansas from present Commission policy.

Sharing the same concern as Chairman Carmichael, Executive Director Culp said if the Commission approved this change he envisioned at least a year long implementation period ensuring officer training on the change. He said he wasn't sure the change in law was Ex Post Facto, affecting cases prior to this time. This is a preliminary briefing to let the Commission know this is out there. The Commission can either continue with current policy or recommend a

change. If a change is made he anticipates KS-CPOST spending significant time defending the policy against defense attorneys for the affected law enforcement officers.

KS-CPOST counsel Eric Williams added a couple of things, there are still ways to plea around these rules. For example, take disorderly conduct, under state law it has different sections. There's disorderly conduct fighting or causing a scene. If the charges of domestic battery are amended to disorderly conduct litigating the domestic features can be proven at a later date which would preclude one from possessing a firearm according to Federal law. If the individual pleads to the fighting as a public disturbance it would not invoke the force or attempted use of force or deadly weapon which is the key to connecting the case to domestic violence. There is a recent 10th Circuit case out of Wyoming that rules on this kind of case. Specifically the ruling says if it's bodily harm battery with elements of domestic violence that would preclude one from owning a firearm. But if it's not, rather the assaulting and touching type of charge then that would not preclude ownership of a firearm.

Commissioner Hanson asked if the commission was concerned as a governing body with the behavior or the record. She feels domestic violence can be called whatever you want. One of the troubling aspects of DV cases are the contradicting statements made by the parties involved and no officer should be put in jeopardy if the facts aren't accurate. But if someone pleads guilty the behavior is the behavior no matter what the plea is or how one works around the issue. Mr. Williams added to the discussion saying if that behavior precludes one from possessing a firearm, can a person be a law enforcement officer without possessing a firearm? Theoretically one could be a law enforcement officer without a weapon for every day of the year except for one, the day the officer has to qualify with his weapon. On that day the officer would be in violation of federal law.

Chairman Carmichael asked if there were any further questions and reminded the commissioners that no action was required today. Executive Director Culp said an update on this matter would be provided at the next commission meeting and in the meantime he urged the commissioners to think about whether a change needs to be made and if so, how to go about it. Mr. Williams said there was no further business to present. Chairman Carmichael called for a 5 minute recess at 10:00 am.

The meeting resumed at 10:05 am.

The Executive Director's Report

Executive Director Culp began his report with the organizational chart. He noted the hiring of two new investigators, John Gaunt and Joe Herridge. They are both retired from the Highway Patrol. Upon hiring they did a week's worth of firearms training and review of legal updates at KLETC.

Reviewing the Commission Committee assignments it was explained that there is a vacancy on the Investigative Committee due to former Commissioner Gent's resignation. Chairman

Carmichael suggested that Commissioner Stowers, currently serving as the alternate, be moved into full status on the committee.

Executive Director Culp continued his report with a quick snapshot of Kansas Law Enforcement. Thanks to the Central Registry Manager, Amy Kirk for compiling this information. The first chart shows that the number of full time law enforcement officers has increased by 12% over the past 10 years. Currently there are 7,563 certified full time law enforcement officers in Kansas, an increase of 45 officers over the previous year. Even though governments experienced difficult financial times last year a growth trend for law enforcement continues, which makes the expansion of KLETC classrooms and dorms necessary.

There are 267 municipal agencies and 104 counties; three Departments of Public Safety and 62 other agencies including tribal and railroad police. There is a trend based on a letter from the Attorney General concerning the viability of law enforcement agencies being created by county attorneys. They indicated it was authorized through this agency. Once the word got out we're getting a lot of counties that are hiring retired law enforcement officers to be investigators. Nevertheless, when I receive a letter from a county attorney requesting an agency be established I explain to them it's just not that simple. There are requirements of agencies such as racial profiling reporting and the mandatory policies. The County Attorneys realize it and the applications are starting to come in.

Chairman Carmichael asked if any county attorney or district attorney's office been designated an agency. Executive Director Culp said Thomas County had just sent in an application and Saline County said they wanted to be designated an agency. Commissioner Hansen asked if these new agencies were commissioned through the state of Kansas, Executive Director Culp responded they are under local jurisdiction not state law enforcement. In the past sheriff's offices have given commissions to investigators. But in the new approach the designation is accomplished through the county and creates a separation from the Sheriff's Office for the County Attorney.

Commissioner Hansen explained in her county the sheriff had declined to commission investigators as he had nothing to do with the quality of the work, the selection of the employee and does not want the liability or responsibility. KS-CPOST counsel, Eric Williams explained that the county attorney would be the commissioning agency. They would be self authenticating and the sheriff's refusal to participate would not matter. Chairman Carmichael asked how many county attorney or district attorney offices are acting as certified authorities. Information was provided that approximately 8 or 9 have been designated.

Executive Director Culp reviewed the distribution of law enforcement agencies by size of staff. They are as follows: 3% of agencies have more than 100 officers; 3% of agencies have 51-99 officers; 7% of agencies have 26-50 officers; 8% of agencies have 16-25 officers; 7% of agencies have 11-15 officers; 22% of agencies have 6-10 officers; and 50% of all agencies have 5 or fewer officers. These statistics don't change much from year to year. A continuing concern voiced by the small agencies is their staff size makes it difficult for the officers to get their annual training accomplished. Slowly but surely these are being brought into compliance.

Executive Director Culp began the Financial Report saying the 2009 revenues for KS-CPOST increased by over \$26,000 from the prior year. Total revenue was \$690,158.29 or average monthly amount of \$57,513.19. The proposed 2010 budget will be about \$650,000. It will require average monthly revenue of \$54,166 to sustain it. Agency is currently receiving \$3,000 per month over the expected needed budget.

Reviewing revenues for the past three years shows consistently increasing amounts, payments are inconsistent from month to month but steadily rising from year to year. More cities are paying consistently but there are some that just will not pay their share of the municipal court fees. But Director Ed Pavey has done a good job following up with these cities. He explains to the law enforcement agency head that the officers who write tickets and go to court are generating fees for law enforcement but they are not being sent in. Usually the agency head will contact the courts and take care of the problem.

Total expenditures for KS-CPOST for 2009 were \$453,898. The major categories show the payments by program. Reviewing what's been spent over the past three years shows the increased disbursements. The 2009 figures include moving costs, furnishing the office and increased staff. A list showing all expenditures is included and Executive Director Culp would be happy to answer any questions concerning them.

The 2010 budget for salaries has been adjusted to \$438,384 and the entire budget is \$578,700. There is a full time investigator position included in the funding. It has not been filled to date because there was a possibility the KS-CPOST budget could have been trimmed by an additional 10% last May due to the state's fiscal challenges. The projected budget for 2011 is \$650,000.

Chairman Carmichael asked Executive Director Culp to inform the commission about the legislature's elimination of KS-CPOST's reserves. Executive Director Culp explained that KS-CPOST was charged \$500,000 for support provided by the State of Kansas. It's difficult to know what services are provided for KS-CPOST that amount to that much money.

Executive Director Culp's news of the agency's Business Purchase Cards audit was the final item of his report. He explained the results showed the cards were being used appropriately and the findings were positive. He also informed the commissioners that a standard business practice audit will be conducted every three years for the agency and the first one has been scheduled. This concludes the executive director's report.

Chairman Carmichael asked for any final questions or comments on the report and hearing none asked for a motion to accept Executive Director Culp's report. Commissioner Hansen so moved with a second by Commissioner Breshears. The motion carried.

Report on Sanctions and Investigations

Executive Director Culp explained there was a commission action spread sheet included in the book, it's also being shown on the screen and is available on line at the KS-CPOST web site. On page 6 an individual by the name of John Hurla is listed. This case went before the Hearing

Panel Committee of which Commissioner Breshears is the chairperson. This one is all done, the Summary Order of Revocation of Certificate is included in the book. This is the final disposition; there are no more appeals possible.

Commissioner Breshears reported the Hearing Panel Committee heard the case in Topeka and he was joined by Commissioner Hanson and Commissioner Barta. KS-CPOST Counsel Eric Williams prosecuted the case along with Mary Feighny of the Attorney General's Office who also sat as counsel for KS-CPOST. Executive Director Culp was also in attendance.

It was an uncomplicated case, concerning the diverted felony conviction of Mr. Hurla that occurred prior to him being hired as a law enforcement officer and prevents him from becoming a law enforcement officer. He had numerous compelling reasons as to how he got into the situation of being employed as an LEO with a felony conviction. He also had numerous witnesses come forth to testify about his character. The fact is statute 74-5605 (a)(3) is very clear a convicted felon who has been through diversion on or after July 1, 1995 may not be a Kansas law enforcement officer. The Hearing Panel Committee ordered the revocation of John Hurla's law enforcement certification.

Commissioner Hansen said this case was instructive for agency heads as this person did not conceal his conviction on his application when he was hired to be the dispatcher but it was an oversight by the agency head when Mr. Hurla was transferred to patrol. A sad case for sure as Mr. Hurla was well regarded by his colleagues.

Executive Director Culp called on the chairperson of the Investigative Committee, Commissioner Jarboe. He said the committee was very happy to have two investigators on board and the work presented at the committee meeting the previous day was exemplary. He's looking forward to working with them as there are several situations being actively investigated at this time and more cases in need of attention. Committee members will be convening more in the future.

Commissioner Barta said going into the hearing on John Hurla, he realized he knew the family and this young man. He also agreed it was a sad situation because the young man had not concealed any information but in the end the outcome was right, rules are rules.

New Business

The first order of new business was swearing in the two new investigators, John Gaunt and Joe Herridge as State of Kansas Law Enforcement Officers. Chairman Carmichael administered the oath to both men.

Chairman Carmichael said the next item of business would be an Executive Session if necessary. He is unaware of any need and asked Commissioners if one was needed, hearing no request, none was called.

Executive Director Culp introduced the new KS-CPOST web site to the commissioners. It is found at <http://www.kscpost.org/index.html>. Entry into the site is by clicking on the revolving coin. The first page has greetings from the Chairman Carmichael and Executive Director Culp. The website contains a lot of up to date accurate information. The staff of KS-CPOST contributed to the website's content which includes: open records policy; certification actions are listed by name, date or a downloadable form; plan to include directions for making a complaint; and forms. This will replace the current web page, at the same address, which contains out of date and inaccurate information.

Appreciation was expressed to Executive Director Culp and new KS-CPOST staff member, Matthew Deffner, IT and Staff Support, for their work on the new KS-CPOST web site. It was explained that Matt was answering the phone today at the office and therefore could not be at the meeting. All agreed that Matthew did a good job on the new web site.

Chairman Carmichael brought up an item skipped under New Business, 'Request to support or endorse the Governor's Domestic Violence Program.' However, information presented earlier today by Director Pavey disclosed the Kansas County and District Attorney Association's concern about gender bias in the law enforcement training curriculum for domestic violence and plans to resolve these concerns. Executive Director Culp explained the Commission has representation on the Governor's committee, through Commissioner Miller. Chairman Carmichael suggested to the Commission that until such time the matters are sorted out that no action be taken. As long as the issue is under study it would be premature for the Commission to act upon the request at this time. That is unless someone wants to make a motion to the contrary; hearing no such motion the issue will be tabled for now.

Chairman Carmichael moved to the next item, Commissioner Comments or Concerns. After advising that sufficient time remained for discussion he asked if there were any matters of interest. Hearing none he continued, saying perhaps priorities for the Commission ought to be discussed relative to the back log of complaints that came in or developed when the agency had no investigators available to pursue them. Now with investigators on board and new complaints and concerns continue coming in how will these old matters be dealt with. Chairman Carmichael asked Executive Director Culp to enlighten the commission on his ideas for establishing priorities.

Executive Director Culp said initially his goals were to establish an independent agency, find office space, hire staff and develop a budget and for the most part they have happened. Now it has to be determined what the priorities of KS-CPOST should be in regards to the staff. There is the issue of a number of outstanding files that have some material in them but no disposition. Some of them are so old, having accumulated when KS-CPOST really had little staff and no investigative abilities.

Compared to the detailed investigations and reports being done now in response to current complaints being reviewed by the Investigative Committee and the Hearing Panel Committee it would be difficult to investigate and report on many of the older cases in any great detail. The question is how far back does the Commission want to go and which cases should be addressed.

This must be balanced with our increasing volume of complaints as the agency becomes more of a known and used resource within the state of Kansas. As the public becomes more aware the calls and complaints will increase even more. This could be one priority.

Another priority is developing the agency's ability to generate information from the data we have. Executive Director Culp said it has been his goal from the beginning of his association with KS-CPOST to develop an automated system of data storage and retrieval with software and hardware updates so that every agency in Kansas can connect with KS-CPOST to determine the status of their officers regarding training and annual weapons qualification. The system would be accessible by individual officers for review of their own record, by training directors and agency heads for all of their staff and by KLETC staff checking for provisional certification. There are people falling through the cracks because of inability to track them adequately. The funding for this high priority project will be secured but not during the economic conditions existing within the state.

Executive Director Culp explained another priority may be reviewing and updating statutes that govern the operation of KS-CPOST. This will require a lot of research and administrative work. Chairman Carmichael pointed out the regulations should be included as well. Some of them are based on older models. Executive Director Culp said looking at these needs of these areas of KS-CPOST operations it's apparent that not all can be the priority. Although progress to date shows we're capable of doing a lot.

Commissioner Ralston, a member of the Investigative Committee, said he is beginning his second term on the Investigative Committee. He praised the detailed material given to the committee on current cases by the investigators. Having specific knowledge of the case made a huge difference on the speed and the accuracy of committee deliberations. Having investigators is very important.

Commissioner Breshears, chairperson of the Hearing Panel Committee, shared his view of KS-CPOST and committee roles as being about certifying and decertifying law enforcement officers. Making sure the officers carrying law enforcement credentials in the state of Kansas meet the standards is the foundation of the agency and where efforts need to be concentrated. The backlog of cases includes some pending since he joined the commission ten years ago.

He recommends that a line be drawn at some point in time, for example inactivating cases from 10 or 12 years ago. The cases prior to that time would be deactivated and filed away on the shelf. However if a case involves an individual that remains active in law enforcement then the investigation should continue and be moved to the front burner. It is not effective use of resources to have the investigators work on the "cold cases" for lack of a better term when there are pressing issues on active law enforcement officers whose conduct has been brought into question. Commissioner Breshears said these should be the priorities for KS-CPOST.

Commissioner Bush expressed agreement with Commissioner Breshears' thinking. He said he asked Executive Director Culp at the last commission meeting if any of the long time pending investigations involved currently employed law enforcement officers and was told they did not.

But if any of them do represent actively employed officers they need to be become priorities for resolution.

Commissioner Bush said he asked Executive Director Culp earlier today if it was possible to ascertain compliance with racial profiling and stalking training requirements and was told there was no way to profile them given the limitations of the current record keeping system. Executive Director Culp interjected there is no statute requiring that domestic violence, racial profiling or stalking training be reported to KS-CPOST. It is a best practice for agency head to report staff training.

Chairman Carmichael summed up the discussion saying there was no need for formal action on priorities today but suggested that Executive Director Culp could bring a list of formal priorities to the next meeting. Executive Director Culp explained he wanted to carry out the desires of the commissioners as they perceived the needs of the State of Kansas in the area of law enforcement and requested input from them. He would be willing to share his perception of these needs if needed.

Commissioner Maple addressed Chairman Carmichael saying priorities have been established and ranked informally. For example with the old cases, the investigations and investigators are in place now it's time to act on them. Agreeing with Commissioner Breshears, he said if there are old complaints that have been hanging around for a while and don't involve active law enforcement officers then let's work on current issues. As complaints come in Executive Director Culp can work with the investigators to prioritize them. Regarding the KAR's and statutes that are out of date, the commission represents a lot of expertise and Chairman Carmichael could establish subcommittees that could help leverage action for needed changes on them.

KS-CPOST needs to be able to provide specific training information to the Human Rights Commission as requested down to the last day and hour an officer received Racial Profiling training. Commissioner Maple continued saying there's a lot of expertise in the group to help Executive Director Culp and his people have a more accessible, retrievable computer data base for storing officer information and training records.

Chairman Carmichael asked Executive Director Culp if he needed any other directive besides a consensus of the discussion just held regarding priorities for KS-CPOST. Executive Director Culp said nothing else was needed and as he understood the comments today the overall priority calls for the most current complaints that involve allegations of miscreant behavior that might fall under the watchful eye of the commission would go first. Commissioner Bush added he thought the complaints involving actively employed officers should be assigned high priority also.

Regarding the KAR updates, Counselor Williams can work on those along with Director Pavey and his legal counsel.

Commissioner Breshears said it is not the intention of the commission to overburden the two investigators and he clarified that on inactive files that have been pending for a long time must be filed away. Unless this violates a law the cases should be labeled as inactive and filed away. Resources should be directed towards more pressing cases involving active law enforcement officers. Chairman Carmichael asked if the long term pending cases needed to be reviewed against current records of law enforcement records or should an arbitrary cutoff date of say 3 years or 5 years.

Executive Director Culp suggested approaching the past records through reverse chronological order and after a few years are cleared then declare we're not going back any further. Commissioner Breshears stated the date should be decided today, saying KS-CPOST will not investigate any pending case prior to January 2003 as an example. This will give the investigators a more defined case load.

Chairman Carmichael asked if there were any serious complaints pending from prior to January 1, 2003. He continued saying he presumed anything serious was probably dealt with. Commissioner Breshears disagreed saying a review of the rosters, the full docket I think it shows cases that are still pending, active that are still being carried on the books. Executive Director Culp said he talked with the Investigative Sub Committee the day before suggesting more defined classifications be adopted rather than continue using "tabled." Commissioner Blecha said he thought any complaint pending against an actively employed law enforcement officer should be investigated.

Chairman Carmichael summed up the discussion saying there were two points of view being expressed with regard to the backlog of pending complaints. One position says these cases are old and stale let's just draw a line at an agreed upon arbitrary date. The other perspective says if there is someone with a pending complaint from 2002 but they are still actively working in law enforcement then something ought to be done. Both are good ideas. Commissioner Breshears pointed out that if someone did something bad in 2001, which is 8 years ago.

Commissioner Hanson said the list of Certification Dispositions shows "Disposition" category and everyone on the list handed out has a disposition shown but is there a stack of cases somewhere without a disposition. Executive Director Culp answered that there was. Commissioner Hanson continued saying she thought the officers with disposition were the cases that merited attention and asked how were these cases selected, what got them from one pile to another. Executive Director Culp responded saying he wasn't here then and had no clear answer.

Comment was made that when Lanny Grosland was the investigator he opened a ton of cases. Some of them were based on trivial matters but he received a complaint or something he read about in the paper. It was suggested that those cases could be disposed of rather easily. Counselor Williams said if a line is drawn in the sand for a 2001 cut off point perhaps a distinction could be made between tabling superfluous complaints versus someone who did something prior to 2001 that just now came to our attention. For example, the John Hurla case was from 1999 but required action at this time.

Commissioner Breshears said the date that we would look at is the date the situation came to our attention. Chairman Carmichael asked if it would be possible for someone to do a cursory review of the pending files to ensure no serious violations are overlooked in the inactive cases. Executive Director Culp responded saying the two investigators can do that but only when they don't have a current situation to address.

Investigator John Gaunt commented saying he had looked through the files to familiarize himself when he began work and a number of pending cases are inconsequential but one that he just recently reviewed concerned a domestic violence conviction. Assessing the amount, number and severity of pending complaints reveals two categories that would require attention: the commission of a felony; and the conviction of a misdemeanor or felony for domestic violence. Depending upon the time of occurrence and the laws directing the commission's involvement these cases need follow up, investigation and disposition. Other cases related to an officer's veracity and maintaining the necessary moral character are pending in such great numbers they might represent an impossible task. Going forward complaints of this type can be investigated routinely and presented to the Investigative Committee of the Commission if of a serious nature.

Chairman Carmichael asked if it would be appropriate for staff to cursorily examine the pending cases and make a report at our next meeting with information on the scope of the situation. And present a plan to resolve the backlogged cases utilizing existing resources of the KS-CPOST. The Commission can take action on the plan. The Executive Director Culp reminded the Commission that Joe and John are part time investigators limited to 999 hours which are spread throughout the year. Chairman Carmichael agreed saying he wanted the agency developing the recommendation mindful of the limitations. Executive Director Culp said he had the resources to do what is needed and desired contingent upon the new position being available. If the legislature slices the budget like they did last year we almost didn't have any investigators.

Chairman Carmichael said then the other alternative is Commissioner Breshears proposal of setting a date and declaring pending cases prior to that date as shelved. Conversely, the other recommendation allows for a quick review of the cases. Not being law enforcement Chairman Carmichael said he is not aware of the available resources but there needs to be some direction of how to proceed with the backlogged cases keeping in mind lunch is 10 minutes away.

Executive Director Culp said KS-CPOST was a budget driven agency like other state of Kansas agencies and can accomplish what the budget will permit; he said he doesn't know what that is. Commissioner Hanson said based on the discussion she had a quick recommendation that the investigators along with Executive Director Culp could look at that list, as they have already looked at it and say these are the high priority cases and work them along with the active cases. The other back logged cases can be resolved at a later time. Executive Director Culp said it would take a while to get to the back log whether a date was decided upon or not. It would not be accomplished for a couple of years at least. Chairman Carmichael said at some point it might be nice to close the inactive files, if for no other reason than officers out there have issues hanging over their heads. Commissioner Barta agreed with the suggestion and feels Executive Director Culp has enough information to bring a report to the Commission at the next meeting. He asked if a certified law enforcement officer leaves an agency and several years later decided

to return to the field with a different agency can that administrator find out if there's a pending investigation on that individual. Executive Director Culp explained the official responsibilities of KS-CPOST. The administrator should always have a waiver signed by the applicant and upon the submission of that form along with the information request form then staff at KS-CPOST provides employment information on file for that individual. However, regarding investigative information the hiring agency administrator would be advised to contact a prior employer directly.

Wrapping up the discussion on this issue Chairman Carmichael suggested following along the lines of Commissioner Hanson's suggestion and review this matter at the next meeting to see what resources are available.

Chairman Carmichael talked about establishing a meeting date for the next Commission meeting, three dates were proposed for January for the week of the 25. Rather than take time now he asked Executive Director Culp to advise which of the dates allows for the greatest number of commissioners to attend and inform everyone.

Chairman Carmichael asked if there were any comments from the public this day. Hearing none he moved to the next topic, the selection of an alternate member of the Investigative Committee due to the resignation of Commissioner Gent will be deferred until the Governor makes an appointment to fill that vacancy or until there is an absolute need to fill that committee slot.

Seeing no other business Chairman Carmichael asked for a motion to adjourn the meeting; so moved by Commissioner Barta and seconded by Commissioner Maple. Motion passed.