

**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS•CPOST)**

**COMMISSION MEETING MINUTES
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OCTOBER 27, 2004**

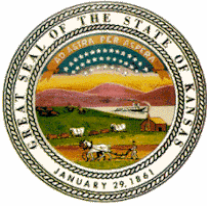
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Attachments

<u>NUMBER</u>	<u>DESCRIPTION</u>
1	Enforcement Policy — Annual Training, dated June 3, 2004.
2	KS★CPOST letterhead stationary.
3	Arizona Integrity Bulletin, dated August 29, 2004.
4	Commission Media Release, dated September 22, 2004.
5	Commission Roster, dated September 28, 2004.
6	District Court Docket Fee Income, September 2003 — September 2004.
7	Municipal Court Docket Fee Income, September 2003 — September 2004.
8	Memorandum to Chairperson Darrell Wilson, dated June 17, 2004, regarding Administrative Disciplinary Hearings
9	Draft policy, dated June 3, 2004, concerning Administrative Disciplinary Hearings.
10	Memorandum to Commission Counsel Kyle Smith, dated May 28, 2004, regarding Administrative Disciplinary Hearings.
11	Internet article concerning HR 218 (National Concealed Carry for Cops), dated July 22, 2004.
12	HR 218: The Law Enforcement Officers Safety Act of 2004.
13	Resolution Interpreting "High School Diploma" Admission Requirement, dated October 27, 2004.
14	Resolution in Support of Additional KLETC Funding, dated October 27, 2004.

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**KANSAS COMMISSION *on* PEACE OFFICERS'
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**COMMISSION MEETING MINUTES
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Welcome and Introduction of Guests

Chairperson Jackie N Williams called the meeting to order at 10AM at the Kansas Law Enforcement Training Center (KLETC), Hutchinson, Ks.

Members present were: Chairperson Jackie N Williams, Lt Colonel Sam F Breshears, Sheriff James F Jarboe Jr, Chief Ed E Klumpp, County Attorney David L Miller, Sheriff Bob G Odell, Chief Vernon A Ralston, Kansas Highway Patrol Lt Colonel Terry Maple representing Superintendent William R Seck, Chief William Smith, and Director Larry D Welch. Not present were Superintendent Seck and Sheriff Gary Steed.

Also present were Assistant Attorney General Lee J Davidson and Special Investigator Lanny K Grosland.

Representing the University of Kansas Continuing Education were KLETC Director Ed H Pavey (ex-officio Commission member), KLETC Deputy Assistant Director Mark Damitio, KLETC Legal Counsel Darin L Beck, KLETC Specialized Training Manager Jack Leon, and KLETC Executive Secretary Lisa Webster.

Robert Senecal, the retired Dean of KU's Continuing Education, was present as a distinguished guest of Director Welch.

Chairman Williams welcomed the guests and introduced the newest members of the Commission — Topeka Chief Ed E Klumpp, St John Chief Vernon A Ralston and Harper Chief William Smith.

Approval of Minutes of Last Meeting

The Chairperson entertained a motion to approve the Minutes of the March 23, 2004, Commission meeting, which was moved by Sheriff Bob G Odell and seconded by Lt Colonel Sam F Breshears. The motion carried.

Recognition of Past Commission Members

KLETC Director Ed H Pavey introduced the following outgoing KS★CPOST members and Chairperson Jackie N Williams presented each with a plaque for their support to the Commission:

Chief Ray D Classen, North Newton Police Department, for eighteen (18) years of service;

Chief Lee Doehring, Leavenworth Police Department, for twelve (12) years of service;

Darrell L Wilson, former Chairperson, for eight (8) years of service; and

Lieutenant Joe T Gimar, Hutchinson Police Department, for five (5) years of service.



Chairperson Williams, Director Pavey and Chief Classen



Director Pavey and Chief Doehring



Former Chairperson Wilson



Lieutenant Gimar

Not present was former Commission member Chief James Braun of the Hays Police Department, who served one (1) year on the Commission.

Report of Special Investigator

KS★CPOST Contact Form

Special Investigator (SI) Lanny K Grosland provided Commission members with a Contact Form and requested they insure the data was accurate and that they provide missing information. All completed forms will be made available to each Commission member and KLETC administrative staff member.

Commission Investigative/Enforcement Policy — Annual Training

Commission members were provided a copy of Enforcement Policy concerning annual training which was adopted by the Investigative Committee on June 3, 2004.¹

The policy mandates that those officers who fail to receive the required forty (40) hours of annual training will receive two (2) warning letters from KLETC, each giving delinquent officers thirty (30) days to complete the required training. Officers who remain delinquent as of November 1 of each year will be served with a summary order of suspension until they complete the training. After a three (3) month period of suspension, if an officer has not completed the required training, the Commission will institute proceedings to revoke each concerned officer's law enforcement officer certification.

New Commission Letterhead

SI Grosland provided Commission members with a redesigned KS★CPOST letterhead² format to comply with a directive from the Governor's Office.

New Members — Short Bio Informaiton

New Commission members were requested to provide a short biographical sketch, to include education and experience, for a KS★CPOST informational document.

¹ Attachment #1 — Investigative Committee's Annual Training Enforcement Policy, dated June 3, 2004.

² Attachment #2 — KS★CPOST letterhead stationary.

Handouts

Grosland also provided Commission members with the following documents:

Arizona Integrity Bulletin, dated August 19, 2004;³
Commission Media Release, dated September 22, 2004;⁴ and
Commission Roster, dated September 28, 2004.⁵



Left to right: Grosland, Webster, Damitio, Beck, Pavey, and Ralston



Left to right: Welch, Williams, Maple, Classen, Smith, Klumpp, and Doehring

Report of Assistant Attorney General

Assistant Attorney General Lee J Davidson reported he had one matter pending which was referred to the Attorney General's Office by the Commission's Investigative Committee. He has prepared a petition seeking administrative action concerning a moral character issue. The petition was presented to the Attorney General for his review.

³ Attachment #3.

⁴ Attachment #4.

⁵ Attachment #5.

Report of Director Ed H Pavey

Physical Plant

Director Pavey advised the group that a tour of the new KLETC administration building will be offered following the conclusion of the meeting. The classrooms in the new building are nearing completion. Assistant Director Dave Warry, the instructors, and instructional support staff still have offices in the main campus building. The remainder of the administration and support staff are now located in the new administration building.

Funding

Director Pavey distributed docket fee income charts were distributed to the Commission and he gave an update on funding.⁶ Current docket fee income, from both district and municipal courts, is at the anticipated level for FY05.

New Instructors

In hiring actions, employment offers have been made to three new instructors. Two of them have already started work. They are Bobby Seacat, a former Kansas Highway Patrol Trooper, and Bruce Jolliff who has retired from the Newton Police Department. Ryan Bloom, currently the sheriff of Trego county, will start work as an instructor on January 4.

Director Pavey reported they had hoped to hire a fourth new instructor, but were unsuccessful in finding an appropriate candidate. A new hiring process will be held in the future for this position.

Student Issues

A student officer, who, during the first week of basic training advised she had a back injury. Her physician placed restrictions on her which prevented her from continuing with training, and she was terminated by her agency. She has since filed an Equal Employment complaint and a Civil Rights complaint. Both investigations found a no probable cause finding for her complaint. She has now filed a complaint with the Governor's ADA coordinator. Darin Beck is working with him to try to find resolution. The student has been advised that if her doctor releases her to perform the necessary functions of training, she would be readmitted. The case is still open and on-going.

Another student did not achieve sufficient GPA requirements to graduate. He subsequently wrote letters to legislators, the

⁶ Attachment #6 — District Court Docket Fee Income
Attachment #7 — Municipal Court Docket Fee Income

attorney general, governor and the news media, alleging 14 pages of complaints against KLETC. KU hired an independent investigator to investigate the situation. The investigator has until the end of November to complete the investigation and issue formal findings. Larry Welch advised he had been contacted by a state senator asking about the case. Director Pavey also received phone calls from legislators and newspaper editors. KLETC's position is that no discrimination occurred.

A complaint was filed by a student regarding KLETC's grading system. This was reviewed by the Attorney General's Office, which issued an informal opinion stating the grading system is in compliance with Kansas Administrative Rules.

An incident occurred recently with a tribal police department who did not want to pay tuition for their officer to attend basic training, stating a new law which gives them authority outside the reservation, therefore, they contribute to KLETC's funding through their District Court transactions. Darin Beck dealt with the situation, and the department eventually paid for their officer's tuition.

Complaint to Governor's Office

Darin Beck reported on a letter which was sent to the Governor's Office by a citizen, making allegations about a deputy who allegedly had a civil rights case filed against him and who had filed false police reports, stating that the Commission had taken no action against him. Darin responded by preparing a response to the Governor's Office, for Chairman Jackie Williams' signature. Chairman Williams commended Beck for his fine work on this response. Larry Welch made a motion to send a copy of the letter to the person who brought the allegations. The motion was seconded by Bob Odell. Motion carried.

Kansas Police Administrator's School

Mark Damitio briefed the Commission on the Kansas Police Administrators School which was held August 30 through September 3. There were 24 attendees to this class. The segment on media relations was a big hit with the class. The instructor was Richard Brundage, an anchor with PBS in Kansas City. He did an excellent job. He will also instruct a session for the new sheriffs school in December. The KACP voted to hold this school again in 2005. Each attendee was charged \$100 for the class. A bill for \$4,700 was sent to the KACP to cover remaining class expenses. Damitio thanked Jack Leon for his hard work on this class.

Senate Bill 432 — Mandatory Employment Status Reporting

Senate Bill 432 went into effect July 1. This bill requires agencies to submit a form to KLETC providing detailed information

on officers leaving the agency under unfavorable circumstances. This then provides a resource for other agencies who are considering hiring these officers to get information on why they were terminated.

Central Registry

Darin provided an update on the central registry. Officers are required to get 40 hours of training each year. Those who are short on training hours are sent a letter notifying them of the need to complete the training hours. The first notices went out to 109 officers. Thirty days later, a second notice went out to the remaining 24 who were still delinquent. Of those, 22 remain delinquent today. They will be sent one more notice, after which the remaining names will be sent to the Commission for action. Officers can ask for extension of time to complete their training, of which KLETC has received 54 such requests. Of those, 31 have completed their training, with the remaining still being tracked.

Director Pavey pointed out that each year, a small number of the same officers appear on the delinquency list. It takes a lot of staff time to send letters to these same people each time. He suggested a policy be developed to let these officers know this is unacceptable.⁷

Primedia Grant

Mark Damitio gave an update on the Primedia grant. This is the satellite communication and training system that has been installed in 169 law enforcement sites throughout the state which delivers LETN training and access to information in case of emergency. There is now at least one site in each county. Cherokee County was the last one to be completed in September. The grant has been in place since February. Ron Jackson is KLETC's half-time coordinator for this grant. Ron has been following up with agencies to make sure they are satisfied with the system. This system has been set up in Kansas and New Hampshire through federal grants. Primedia approached the New Hampshire governor for additional funding. They wanted to approach Governor Sebelius, as well, without KLETC's participation, however, KLETC does not want them to do that and are monitoring to make sure it does not happen without KLETC's knowledge or participation. KLETC will also reapply for a second grant for this project. A meeting will be held at the IACP conference in Los Angeles, where KLETC will discuss extending sites.

⁷ See page three and footnote one concerning the enforcement policy adopted by the Commission's Investigative Committee.

Miscellaneous Matters

Director Pavey gave an overview of KLETC satellite academies.

He also gave an update on the KU Anti-Terrorism training grant application. They are going to regroup and decide who will be trained.

Jack Leon showed the group a videotape regarding KLETC officer survival training.

KLETC is currently looking at some changes in the curriculum for next year.

The SAMS school will be held in Topeka the end of January.

Mark Damitio reported on CD-based training. This is something that was requested in the recent needs assessment survey.

A specialized train-the-trainer class was recently held on Tasers. Taser training will soon be given to the basic students since many agencies are starting to use tasers.

The New Sheriffs Orientation class will be held December 6 - 17. The KPOA and KLETC will hold a BBQ for the new sheriffs on December 7. All Commission members are invited to attend.

On-line training reporting is now available to most agencies. 78% of officers' training is now being submitted on-line. Last year, 88,539 training records were generated on 19,000 training events.

Assistant Director Dave Warry was appointed by Governor Sebelius to the Domestic Violence Fatality Review Board.

Ron Gould graduated from Leadership Kansas on Friday.

KLETC's annual golf tournament will be held on Monday, August 1, 2005, at the Highlands Country Club in Hutchinson.

Governor Sebelius has tentatively agreed to be our graduation speaker on March 4, 2005. Director Pavey invited Commission members to attend the graduation ceremony and to sit on the stage. He asked everyone to let him know in advance if they will be present.

[Note: The Commission recessed for lunch at 11:15AM
and returned at 12:00PM.]

Old Business

Administrative Disciplinary Hearings

Special Investigator (SI) Lanny K Grosland reported at the request of former Chairperson Darrell L Wilson, a draft policy concerning Administrative Disciplinary Hearings was completed whereby the entire Commission would function as the Hearing Committee. Some KS★CPOST members had felt when a disciplinary matter was settled in the name of the Commission they did not have any input in that decision.

Grosland provided Commission members with the following documents:

Memorandum to Chairperson Wilson, dated June 17, 2004, regarding Administrative Disciplinary Hearings;⁸ and
Draft policy, dated June 3, 2004, concerning Administrative Disciplinary Hearings.⁹

The changes to the current policy would be:

- ✓ The Special Investigator would set a date and location for an administrative hearing for a matter to be considered by the entire Commission;
- ✓ Before a disciplinary hearing could be conducted at least a majority of the KS★CPOST membership will be required to be present; and
- ✓ Adverse action could not take place without the approval of a majority of the Commission members present for the hearing.

Grosland noted in the past it was felt the members of the Commission's Investigative Committee (CIC) could not participate in a disciplinary matter at the hearing stage. It has since been determined that opinion was incorrect and CIC members could participate in an administrative hearing.

He also pointed out two obstacles in adopting such a policy were Kansas Administrative Regulation (KAR) 106-1-1, which defines the "hearing board" as a panel comprised of three members of the Commission and KAR 106-1-3 which states the hearing board shall hear the (disciplinary) charges. Last May Grosland asked Commission Counsel Kyle Smith if the Commission could adopt such a policy or if the applicable KARs would have to be changed.¹⁰ The question remains unanswered.

Lt Colonel Sam F Breshears and Director Ed H Pavey pointed out that KAR 106-1-1 and 106-1-3 were rather clear in that the

⁸ Attachment #8.

⁹ Attachment #9.

¹⁰ Attachment #10 — Memorandum to Commission Counsel Kyle Smith, dated May 28, 2004, regarding Administrative Disciplinary Hearings.

Hearing Committee would be composed of three members and that Committee would decide all disciplinary matters when a hearing was requested by a respondent/officer. Director Pavey also noted that it would take at least one year to change a KAR. Chairperson Williams advised it was not difficult to change a KAR, it was just time consuming.

Lt Colonel Breshears asked the Commission if there was a problem on the way the three member Hearing Committee was handling disciplinary matters. Director Larry Welch advised he and Chairperson Wilson were having some problems because there were some occasions when it would be announced the Commission decertified an officer and it was possible, even though the matter had "run the full procedure" they would not know what the original allegation was or why it was done. He did note that Grosland does now keep them well advised by providing a synopsis of the original complaint, etc.

County Attorney David Miller inquired if the decision of the Commission's Hearing Committee (CHC) could be appealed. Grosland explained a respondent currently could appeal a decision of the CHC to the full Commission or appeal directly to a district court with jurisdiction. Plus, a respondent/officer could appeal to a district court to challenge the final decision of the full Commission. It was noted a respondent would lose the right to appeal to the full Commission if the full Commission acted as the Hearing Committee. The only appeal available would be to the district court if the full Commission heard disciplinary matters.

Assistant Attorney General (AAG) Lee Davidson noted that he was unaware of an appeal ever being made to the full Commission, however, there had been some matters which were appealed to a district court.

Director Welch also questioned the role of the CIC in proposing disciplinary actions. He noted there could be instances where the Committee proposed a reprimand when a majority of the Commission may feel a revocation was in order. As an example, Welch advised a number of years ago the CIC recommended an officer's certification be suspended for one year when a number of the Commission members felt the respondent's certification should have been revoked. He pointed out, the way it is currently, an officer could be disciplined in the name of the full Commission, however, technically only six members (three on the CIC and three on the CHC) of KS★CPOST participated in the decision to take administrative disciplinary action.

Grosland said a procedure could be adopted hereby after the CIC made a decision as to the course of disciplinary action, at the next full Commission meeting, the members could go into an executive session to approve or disapprove the CIC recommendation.

Former Chairperson Wilson also mentioned that maybe the Commission should look at the possibility of having the full Commission serve as the CIC. Grosland noted he did not think that was a good idea since the CIC meets at least once every two months. He recommended the Investigative Committee continue to operate as it does now with three members, who are appointed by the Chairperson, to serve in that function. Grosland suggested any Commission member could attend CIC meeting and participate as a voting member if they desired.

Director Welch noted that he did not feel it would be cumbersome if, after the Commission's Investigative Committee (CIC) made it's recommendations for disciplinary action and the Commission Hearing Committee (CHC) took action, but before the CHC announced it's decision a brief report be made to the full Commission.

Director Pavey inquired if instead of waiting until the next Commission meeting, a summary report of the facts and findings be sent to each Commission member. If enough Commission members disagreed with the findings, call for a regular meeting to discuss the matter before a final decision is made. Director Welch advised that would be fine, but with no more hearings that the Commission has each year, he did not see where that was going to slow up anything by doing it at a regularly scheduled KS•CPOST meeting.

Director Welch reported if no other member was troubled by the current process he would "yield."

Lt Colonel Breshears asked if there was a procedural option whereby the CHC could say they did not want to hear a matter and "kick it to the full Commission."

Director Welch advised he had no complaint with the Investigative or the Hearing Committees and wanted to "commend them ... (for the) wonderful job" they do. However, it was his opinion that the "tail was wagging the dog and lots of time things were being announced in the name of the Commission (when) half of us didn't know what that was all about."

Chairman Jackie Williams felt the down side of Director Welch's proposal was getting members together for a meeting. Welch pointed out he though it still could be done at a regularly scheduled meeting.

Lt Colonel Breshears was of the opinion if the full Commission discussed the matter after the CHC heard the evidence there would be a violation of the KAR since the full Commission would be acting as the Hearing Committee. Director Welch pointed out that all he was taking about was a report to the full Commission, "just a brief ten (10) minute report."

Chairman Williams inquired if there was a legal obstruction to what Welch was suggesting, meaning once the Investigative

Committee has considered the matter and the Hearing Committee has heard the matter, but before anything is finalized, a briefing is given to the full Commission.

KLETC legal counsel Darin Beck suggested they could accomplish the same thing that Director Welch wanted, by just having an automatic appeal of every hearing before the full Commission. However, Welch stated that was not what he wanted to do. He again reiterated that all he was asking that before a final decision was announced the CHC share it with the full Commission at a regularly scheduled Commission meeting.

AAG Davidson noted that would slow down the process if they waited for a regularly scheduled meeting of the full Commission before announcing a decision. At times cases are being presented to get an officer decertified as quickly as possible because of safety issues, especially if the officer's department has not taken action to suspend or terminate the officer.

Sheriff Bob Odell suggested, with today's technology, as soon as a matter was concluded by the Commission's Hearing Committee (CHC), all Commission members could be notified via e-mail. Within a one or two (2-3) week period a member who felt a different decision should have been made, could call the Investigator and if he received two or three (2-3) calls, it would mean the full Commission should review the matter.

Beck questioned if the full Commission reviewed the matter and wanted to change the CHC decision, would the officer (respondent) have the right to be heard again.

Director Welch again stated it would not be a second hearing, just a report from the CHC to the full Commission. If there was a problem or disagreement they could say, "you go back and re-do this, I'm not saying that would ever happen."

Chief Ed Klumpp suggested after all of the evidence was heard at a hearing, the CHC continue the hearing until a report is made to the full Commission. The Commission then can voice concerns about the recommendation the Hearing Committee was entertaining. After that the CHC could reconvene (after the full Commission meeting) to finalize their decision. He also felt the final announcement of the action should reflect it was the decision of the Hearing Committee.

AAG Davidson stated in that case there could be concerns generated by other members of the Commission. If so, the CHC could re-convene to hear more evidence on a specific issue with the respondent being present.

Chairman Williams noted KAR 106-1-3(b) stated the Hearing Committee Chairperson could continue the hearing "from time to time," which is what Chief Klumpp was talking about. He asked AAG Davidson if he was suggesting that a vote be taken or not be

taken by the full Commission to ascertain if a matter should be continued.

Chief Klump reported a vote should not be taken by the CHC until after the matter was reviewed in front of the entire Commission after which the Commission would have an opportunity to voice concerns about what they heard. The Hearing Committee would make their decision after that, but only based on the evidence and testimony presented during the hearing with the concerns of the entire Commission taken into consideration.

Chairman Williams stated if it was an emergency situation, they could follow the procedures suggested by Sheriff Odell by using e-mail. SI Grosland advised if it was an emergency matter the Commission could use a summary order.

Director Pavey advised he liked Chief Klumpp's proposal, but wanted to know if there were any due process concerns with that procedure.

Chairman Williams reported he had not researched the issue, but suggested the Commission could vote on the proposal subject to research of due process concerns. Or, the Commission could take a look at the proposal at the next meeting after the research was completed. He noted this proposal would slow the procedure down, and that a prime problem, however, on the other side if it is going to be a KS★CPOST disciplinary decision, it ought to be the (full) Commission.

Chief Klumpp inquired if a Commission meeting could be held without it being published and how much minimum lead time was required to hold a meeting.

Grosland said a notice of meeting had to be published in the Kansas Register, which is published every Thursday, and he had to have it submitted at least a week in advance of the publication date. At least two weeks, at a minimum, were needed prior to having a meeting of the full Commission.

Chairman Williams asked how many Commission meetings were held on an average each year. Director Pavey advised four (4) a year as they try to have one (1) every quarter. Williams inquired if they could just set dates for four (4) meetings each year.

Chief Klumpp reported his only concern was if you had an urgent matter that should not wait until the next regularly scheduled meeting, what would be done to handle such matters.

Chairman Williams suggested four (4) regularly scheduled Commission meeting could be planned and if there was a need to review an urgent disciplinary action, Grosland could scheduled a (special) meeting.

Chief Klumpp asked if it would be possible to hold a meeting where some of the members participated via conference call or if

the members had to be physically present. The question was not answered and Chairman Williams indicated an Attorney General's opinion might be necessary regarding meetings by the use of a conference call.

Lt Colonel Breshears commented each of the committees (Investigative and Hearing) have been empowered by the Commission to speak for the Commission. While he was aware everyone needs to be notified, because nobody likes to read surprises in the paper or getting a phone call about a decision that has been made that they do not know about. It was his opinion those committees have been authorized to speak for the Commission. Breshears advised whatever the judgments are, we've entrusted those individuals (on the committees) to do the right thing and he did not think "we can turn around and say" it was three members who made the decision for the Commission, that it was not the full Commission's conclusion.

Chairman Williams agreed that the end result had to say the decision was made by the (full) Commission. Director Welch added that was all he was trying to accomplish — "to make sure all the Commission knows what ... is going on."

SI Grosland asked if after a hearing is held, with the Commission Hearing Committee (CHC) operating just as they are doing now, if he could not send an e-mail to all Commission members stating that the matter had been heard and advise the recommended decision.

Chief Klumpp noted if that was done, he was not sure the full Commission could reverse the decision if there were concerns brought up by some of the members.

Grosland reported he did not think the Commission could reverse a decision once it was made.

Chief Klumpp stated he was not asking to reverse a decision, but if you advised all members of a judgment reached by the CHC and some of the members had concerns, they would have no choice but to voice their distress prior to the CHC making the findings. If those members who disagreed with a decision had a convincing argument that would persuade the CHC to change their minds, they (the CHC members) would not be able to do it because they would have already made the verdict.

SI Grosland felt there could be a problem if the CHC held a hearing, heard the evidence, and then continued the hearing to brief all members of the Commission. The problem arises after briefing the full Commission, the CHC adjourned from the Commission meeting to reach a decision without the respondent and/or his attorney being present to voice additional arguments or objections.

Director Welch inquired as to how soon after a typical situation does the CHC make their decision and notify the respondent. Grosland advised the respondent is normally present when the decision is announced. He reported there have been occasions when the CHC takes a matter under advisement, maybe because of a question of law, but normally the process is just like a trial. The CHC hears the evidence and goes into an executive session, so to speak, off the record to decide what action the Commission will take.

AAG Davidson pointed out they were looking at two separate things. One, to give the full Commission veto power, so to speak. And the other is just letting the full Commission know, giving them the information, before the decision goes public.

Chief Klumpp advised what he was hearing was something in between. He did not think you (the full Commission) can have veto power because then you are making the decision and that would be in violation of the Kansas Administrative Regulation. And he did not think it was just to give the Commission notice of a judgment made by the Commission's Hearing Committee (CHC). Klumpp thinks what he is hearing, is members wanting to have at least the opportunity to give some feed back to the CHC before a verdict is finalized so they (the Hearing Committee) can consider those concerns, but it is still the CHC making the ruling.

Lt Colonel Terry Maple suggested that after the Commission's Investigative Committee (CIC) reviewed the results of an investigation, they could make a report to the full Commission. He felt this would address the concerns of Director Welch, that all members would be in the loop and could express their concerns before the matter went to the CHC for disciplinary action. The CHC members would have the opportunity to hear the concerns of all members.

Chief Klumpp advised if they did that, what is missing is the Commission does not know what the officer (respondent) has presented and what persuaded the CHC to go with a lesser level than what was the recommendation of the full Commission. There may have been circumstance that lead that officer to do whatever was his conduct. If the full Commission just hears from the CIC, they do not have "the other side of the story."

Director Welch stated he would settle for feedback from the CIC, however, County Attorney Miller noted all members were not getting everything utilizing that procedure.

County Attorney Miller suggested the middle ground to the solution may be where the CHC meets with the full Commission to discuss their decision. This procedure would take some time and the full Commission would not have veto power, but could voice their concerns with the CHC. If necessary, the CHC could go back to hear more evidence.

Chief Klumpp reported a real simple motion would be to just include in the procedure that prior to the CHC finalizing their decision, that a report would be presented to the Commission.

AAG Davidson advised that what they would have to do at the end of every hearing, after the evidence has been presented, is to inform the respondent that the decision will be taken under advisement and will they will with either recall the hearing to announce their verdict in person or will notify the respondent in writing.

Director Welch made a motion that a procedure be adopted whereby after the completion of a hearing the Commission's Hearing Committee (CHC) inform the subject (respondent) that he/she will receive their final decision in a reasonable time and then all members of the Commission will be immediately provided with a synopsis of the matter and what their recommendation is going to be. County Attorney Miller questioned if that could be done without an open meeting.

KLETC Legal Counsel Beck asked if there could be a motion to direct the KLETC staff to develop a policy consistent to what the discussion has been and report back at the next Commission meeting.

Director Welch withdrew his previous motion and moved that the Commission adopt Beck's recommendation. Lt Colonel Breshears seconded the motion. The motion passed.

Chief Klumpp additionally made a motion that Beck research the prospect of using a conference call in place of a formal meeting of all members of the Commission. Chief Vernon Ralston seconded Klumpp's motion. The motion passed.

Chief Klumpp asked if the Commission had a process where an officer's certification can be suspended when, say an officer is charged with a felony and his employing agency continues to allow him to work.

SI Grosland reported there is a method where the Commission could use a Summary Order of Suspension. He also noted such an incident has never happened where an officer has been charged with a felony and was not placed on administrative leave.

Commission Name Change

Director Ed H Pavey reported KLETC has sent out all the notices concerning the Commission's name change. Police journals were advised and they have had articles as to why the Commission changed it's name. The Governor's Office has adopted the change as can be seen on their press releases.

Record of Commission Meetings

SI Grosland advised no decision had been reached regarding the use of a court reporter at KS★CPOST meetings in addition to using a tape recorder.

He has also looked into using a transcription service to transcribe the tapes. The problem with that would be the identification of voices on the tapes as an employee of a transcription service would not know who was speaking. The only way to solve that problem would be for him to read the draft transcribed minutes and listen to the tapes at the same time to identify the person speaking on the rough copy record. Grosland has not talked to any local transcription services, but found some on the Internet and discovered they are no cheaper than a court reporter.

If disciplinary matters were discussed in an executive session, the only method that would work is utilizing a court reporter. It was noted that a background investigation would probably be required if a court reporter was used for executive sessions in which disciplinary matters were discussed.

Grosland also felt it would be hard for a court reporter to transcribe meetings as he/she would not be familiar with the Commission members. Members would have to identify themselves each time they spoke until a reporter became familiar with KS★CPOST members.

Grosland also advised the minutes and the tapes of meetings are a public record and must be made preserved and available to anyone who requests them.

New Business

HR 218 — Law Enforcement Officers Safety Act of 2004 (National Concealed Carry for Cops)

Commission members were provided an article detailing HR 218 and a copy of the act.¹¹

Director Ed H Pavey reported a working group committee made up of various representatives from the Kansas Highway Patrol, Kansas Bureau of Investigation, Attorney General's Office, KLETC, *et al*, has met several times to discuss this Act as it relates to Kansas. The committee is seeking guidance from the Legislature.

California has issued an opinion that is going to guide their state which relates they have no state-wide standard for firearms

¹¹ Attachments #11 and #12.

qualifications for all officers, therefore the state was not going to get involved. They are going to "throw it back" on the individual agencies.

This subject matter was being brought to the attention of KS★CPOST members to see if there are any issues that should be addressed or any suggestions that can be taken back to the committee.

Currently there is no state firearms standard other than the standards established for the basic police course.

Chief Ed Klumpp advised this was one of the few times he could agree with something being done in California. He felt their policy says just what the Federal law states, each retiree will meet the standards of the agency from which he/she retired. If we simply said Kansas does not have a state-wide standard, it falls back to the retired officer's agency to set the standards.

Director Larry Welch reported there should be a state standard since a retiree from one agency would compare the criteria he/she had to meet with the standards of another agency, which required less training, and file a lawsuit on constitutional grounds.

Sheriff James Jarboe pointed out that is the way it is now — what his department does for firearms qualifications is different than the requirements of another agency.

Director Pavey advised a lot of the larger departments are waiting to see what the state does.

Lt Colonel Sam F Breshears stated he felt there should be a state standard. If an agency, such as the Kansas City Police Department wanted to exceed state requirements, that would be one thing, but all agencies would have to meet the same state standard. He additionally reported the Commission should agree what the standard should be for active and retired officers. The same standard would apply equally to active and retired officers.

Director Welch pointed out he could not require retired KBI Agents to qualify four (4) times a years like active KBI Agents are required.

No action was taken by the Commission.

[Home Schooling vs High School Diploma \(KSA 74-5605\)](#)

Director Ed H Pavey advised they had a recent case where an individual applying for admission to the Training Center did not have a high school diploma, however, had obtained 122 hours toward their bachelor's degree from a very recognized university in Kansas. This individual had been home schooled.

Director Larry Welch pointed out that every college and university in Kansas recognizes home schooling. Director Pavey

noted the Training Act states a person must be a high school graduate, possess a GED or equivalent.

KLETC Legal Counsel Darin Beck reported it made sense to allow the individual to attend KLETC since he was about to receive a bachelor's degree without requiring him to have a high school diploma. He was asking the Commission to review KLETC's High School Diploma Admission Requirement to ascertain if the members agree with the KLETC interpretation. He advised in Kansas home schooling is not recognized, however, what is recognized is an unaccredited private school. In order to be recognized as an unaccredited private school you have to register your home school with the state board of education.

The proposed resolution¹² requires:

- The home school must be registered with the State Board of Education as an unaccredited private school;
- Show that you actually completed the home school education program; and
- There must be some form of independent academic achievement, such as:

A score of 21 or greater on the ACT; or

A score of 980 or greater on the SAT; or

Successful completion of 60 or more hours of college semester credit hours completed at an institution accredited by one of the six regional accreditation associations recognized by the University of Kansas.

Director Pavey advised the Training Act gives him the authority, as the Director of KLETC, to adopt rules and regulations for the effective operation of the program with the consultation and approval of the Commission. The proposed resolution is what they used to allow the home schooled individual to attend KLETC. They adopted the policy used by KU to admit home school students.

Director Welch moved the Commission adopt the resolution proposed by KLETC. The motion was seconded by Sheriff Bob Odell. The motion passed.

[Note: The Commission recessed for a break at 1:08PM and returned at 1:14PM.

Student/Officer Disciplinary Actions at KLETC

Director Ed Pavey reported KLETC had dismissed two (2) student/officers from two (2) different agencies for the same incident about one (1) month ago for taking their patrol car to a bar in Hutchinson and parking it in the bar's parking lot. They

¹² Attachment #13 — Resolution Interpreting "High School Diploma" Admission Requirement.

subsequently brought out all of the customers in the bar to the parking lot and let the bar owner and others get into the patrol car to play with the siren and red lights. There were several calls to 911 and Hutchinson police officers later stopped the patrol car when it left the parking lot. The driver was not arrested, however, one of the officers was belligerent with the Hutchinson officers. Both were dismissed from KLETC and they were later terminated by their departments.

Director Pavey advised KLETC has had several incidents over the years that has involved the dismissal of students. The vast majority have involved alcohol related incidents. Three (3) incidents have occurred in last three or four (3-4) months. As an example, a door window was broken out when a student came back from town and tried to hold the door to prevent a fellow student from entering. Both had been drinking and subsequently a window was broken out. The officer involved paid \$300 to repair the door. Another incident occurred on the elevator when a student picked up the emergency telephone, which goes directly to 911, and refused to talk to the dispatcher. Reno County sheriff's officers responded to a 911 hang up call. The responsible student were not identified.

At the chief's meeting in Emporia the KLETC administrative staff took the opportunity to visit with over twenty-five (25) police chiefs about a proposed rule to forbid the consumption of alcohol during the week with attending KLETC. All the chiefs reported they would support such a rule. They also plan to visit with the sheriffs at the next KSA conference. KLETC does not want to make it an over reaction rule by punishing everyone because of the conduct of a few student/officers. However, each time they have such an incident it takes two or three (2-3) staff members two or three (2-3) days to conduct an investigation and prepare reports, much like a criminal investigation.

A majority of the Commission members were in favor of such a rule. Director Pavey will return to the next meeting with a formal rule proposal.

KLETC Funding: Approaching Kansas Legislature in 2006

Director Ed Pavey advised it was a given they would have to approach the Legislature in the 2006 session as they will need more funding. One thing unique about KLETC in comparison with KU is that all of KLETC's expenses come out of the same fund. Something during the first of the year Director Pavey reported he will outline to the Commission what their plan of action will be after the Training Center staff ascertains what KU approval will be regarding KLETC's budget.

Some of the major projects for which additional funding will be needed includes:

A driving range;
Multi-purpose building for graduations and mass lectures;
Shooting house for tactical firearms training; and
Additional dormitory rooms.

Director Pavey presented the Commission with a resolution to support additional funding for KLETC.¹³ Lt Colonel Sam Breshears made a motion to approve the resolution, which was seconded by Director Larry Welch. The motion passed.

Committee Assignments

Director Ed Pavey gave an explanation of the responsibilities of each committee. Chairman Jackie Williams reported the Hearing Committee meets several times a year as required, the Investigative Committee meets every two (2) months, and the Municipal Reimbursement Committee meets once a year. He suggested those currently on a committee, remain on that committee and asked members if they had a preference to serve on a particular committee.

Chairman Williams made the following appointments:

- Hearing Committee: Lt Colonel Sam F Breshears (Chairman), Sheriff Gary Steed, and Chief Ed E Klumpp, with Colonel William Seck serving as an alternate.
- Investigative Committee: Sheriff Bob G Odell (Chairman), Sheriff James F Jarboe Jr and Chief Vernon A Ralston.
- Municipal Reimbursement Committee: County Attorney David L Miller (Chairman), Chief William Smith and Chief Vernon A Ralston.
- Commission Pro-tem: Director Larry Welch

Chairman Williams noted at since Chief Ralston was on two (2) committees, he will place the FOP commission position member on the Municipal Reimbursement Committee when he/she is appointed.

Other Miscellaneous Commission Concerns

Distribution of Investigative Summaries

Chairman Jackie Williams noted that during the discussion concerning administrative disciplinary hearings that SI Lanny Grosland had mentioned he could make available investigative summaries to all Commission members. Grosland explained what he had mentioned was different than the monthly investigative summary members now receive. When a matter is being considered by the Commission's Investigative Committee, they are provided with an Investigative Report of Investigation which contains a synopsis of the matter, who the witnesses are and what they can testify to, and the evidence available. Grosland would provide

¹³ Attachment #14 — Resolution in Support of Additional KLETC Funding.

these to all KS★CPOST members, however, noted they could not be shared with anyone outside of the Commission, including members of their agencies.

KLETC Legal Counsel Darin Beck advised of a Utah case where the state POST was revealing to agencies conducting backgrounds on a certified officer that they had a matter pending against him. The result was that he was not being hired and the US Court of Appeals ruled the release of that information had the same effect as being de-certified without the benefit of due process. Because of that case, the Commission can not release or acknowledge there is a pending investigation.

Arizona POST Integrity Bulletin

Chief Ed Klumpp wanted to know if KS★CPOST made available a similar document.¹⁴ He reported it was his opinion very few certified officers in Kansas were aware that they could lose their certification for certain conduct. Chief Klumpp stated part of the Commission's goal should be prevention and suggested KS★CPOST publish a similar summary so that officers would be aware of conduct that could result in disciplinary action.

Director Ed Pavey reported SI Lanny Grosland does prepare a media release that does not detail the facts of a case, but does reflect what disciplinary action was taken. SI Grosland noted that the media release not only goes to the newspapers, etc, it is also sent to state law enforcement associations for publication in their magazines, however, he has never seen where they have used the information.

Chairman Jackie Williams inquired as to what would be required to prepare such a publication and suggested they place the suggestion on the agenda for the next meeting.

Director Pavey pointed out one of the funding problems involved Commission staffing. When the Legislature created the Commission they did not provide any funding for a staff. It was not until four or five (4-5) years ago that SI Grosland was hired to work on behalf of the Commission. One of the funding proposals they will present to the Legislature is additional resources for Commission staffing.

It was agreed a KS★CPOST report similar to the Arizona bulletin will be prepared by Grosland and included with KLETC's state-wide mailing.

¹⁴ See Attachment #3.

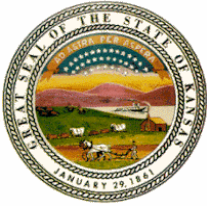
Next Meeting Date

It was approved the next meeting would be held on March 2nd or 9th of 2005. Director Ed Pavey pointed out the Chairman had been approached to hold the meeting in Lawrence at the Dole Institute.

Adjournment

The meeting adjourned at 2:00PM.

LKG/LAW/EHP:lkg/law
2/24/05
[C:minutes/041027]



**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS•CPOST)**

ENFORCEMENT POLICY

ANNUAL TRAINING

In accordance with KSA 74-5607 and 74-5607a(b), the Kansas Law Enforcement Training Center (KLETC) and/or the Kansas Commission on Peace Officers' Standards *and* Training (KS•CPOST) will take the following action when a certified law enforcement officer fails to complete and/or report receiving the mandatory annual forty (40) hours of law enforcement education or training.

- ✓ Within a reasonable time period after the conclusion of each training year KLETC will send a warning or notice of violation letter to each certified law enforcement officer, with a copy to the officer's agency head,¹ who fails to complete the mandatory annual forty (40) hours of training.² The warning letter shall advise the certified officer that he/she has failed to complete and/or report the required training and reflect the number of delinquent hours.
- ✓ If after thirty (30) days each certified law enforcement officer who received a warning or notice of violation letter from KLETC fails to comply, he/she shall be sent a second warning letter by KLETC, with a copy to the officer's agency head.³ In the second warning letter the certified officer in violation shall be informed that the violation of KSA 74-5607a(b) will be reported to KS•CPOST for administrative disciplinary action if the mandatory training is not completed and reported to KLETC within thirty (30) days. The second warning letter shall further state that the Commission will take formal action to suspend the certification of the officer in violation if the required training is not reported within thirty (30) days.

¹ If the certified officer in violation of the annual training requirement is a chief of police, a copy of the warning letter shall be sent to the applicable mayor or city manager. If a sheriff is in violation of the annual requirement, a copy of the warning letter shall be sent to the applicable county or district attorney.

² This policy does not pertain to those officers who have been granted an extension, waiver or modification of their annual training requirement by the Director of Police Training.

³ See footnote 1.

- ✓ Thirty (30) days after the second warning or notice of violation letter was sent, KLETC shall report to KS•CPOST the names of each certified law enforcement officer who has failed to complete and report the mandatory training. The Commission shall upon receipt of the names of those certified officers who have failed to complete and report the mandatory annual training as of November 1 of each training year, suspend the certification of those officers. A copy of the summary order of suspension will be provided to the applicable agency head⁴ and KLETC. A cover letter shall accompany the summary order of suspension, advising the officer that the suspension will remain in effect until such time as the required training has been completed and reported to KLETC. KLETC shall immediately notify KS•CPOST of all training completed and reported by those officers under suspension.
- ✓ The Commission will institute proceedings to revoke the certification of each officer, who after a period of three months of suspension has not completed and/or reported the required annual training.

The effective date of this enforcement policy is June 30, 2004.

Approved on the 3rd day of June 2004, after a motion was made to consider this policy, seconded, and voted upon by the Investigative Committee of the Kansas Commission of Peace Officers' Standards and Training at an open meeting.

RAY D CLASSEN
Chairman
Commission Investigative Committee

LKG/EHP/lkg
5/19/04; 6/3/04
[M:0405-01]

⁴ If the certified officer in violation of the annual training requirement is a chief of police, a copy of the summary order of suspension shall be sent to the applicable mayor or city manager. If a sheriff is in violation of the annual requirement, a copy of the summary order of suspension shall be sent to the applicable county or district attorney.



K A N S A S

JACKIE N WILLIAMS, CHAIRPERSON

KATHLEEN SEBELIUS, GOVERNOR

**COMMISSION on PEACE OFFICERS' STANDARDS and TRAINING
(KS•CPOST)**

September 22, 2004

MEDIA RELEASE

Governor Appoints New Chairperson and Four Members

Governor Kathleen Sebelius appointed Jackie N Williams of Wichita to succeed Darrell Wilson of Salina as the Commission Chairperson. Williams is the former US Attorney for the District of Kansas.

Governor Sebelius also appointed to four (4) year terms the following law enforcement officials:

Chief Ed E Klumpp, Topeka Police Department;
Chief Vernon A Ralston, St John Police Department;
Chief William T Smith, Harper Police Department; and
Colonel William R Seck, Kansas Highway Patrol.

Commission Changes Name and Acronym

Following a unanimous vote of members present at the Kansas Law Enforcement Training Commission meeting on March 23, 2004, the Commission's formal name was changed to the **KANSAS COMMISSION on PEACE OFFICERS' STANDARDS and TRAINING (KS•CPOST)**. This name change will coincide with statutory language found at KSA 74-5606 in the Kansas Law Enforcement Training Act.

PO BOX 632 • HUTCHINSON, KS 67504-0632
Main 620 694-1430 • Fax 620 694-1440
Special Investigator 620 694-1526 • E-mail: invs@kscpost.org

ATCH #4
KS•CPOST Meeting
10/27/04

KSA 74-5606 states in relevant part "...There is hereby created the Kansas law enforcement training commission on peace officers' standards and training ... "

On past occasions many Kansas law enforcement officers and members of the public and media have confused the Kansas Law Enforcement Training Commission with the Kansas Law Enforcement Training Center (KLETC). And on many recent occasions print media stories covering commission activities have used the acronym KLETC to identify the Commission. Because both organizations were being identified by the same acronym, commission members felt a name change was warranted.

The Kansas Law Enforcement Training Center's (KLETC) mission is to provide training and education for Kansas law enforcement officers and is not responsible by statute for the enforcement of the Kansas Law Enforcement Training Act. The Commission, now referred to with the acronym KS•CPOST, is a 12-member body appointed by the Governor. The Commission oversees law enforcement training and officer standards as established in the Kansas law enforcement training act.

Disciplinary Actions

Chairperson Jackie N Williams announced the Kansas Commission on Peace Officers' Standards and Training (KS•CPOST) took disciplinary action against the following individuals:

- On April 14, 2004, the law enforcement certification of **TROY FOSTER**, 34 years of age of Overland Park, Kansas, was **revoked**. FOSTER, formerly with the Pratt County Sheriff's Office, had his certification rescinded for violating the moral character standard (domestic violence) of the Kansas Law Enforcement Training Act.

- On June 17, 2004, the law enforcement certification of **BRIAN DU PREE**, 38 years of age, was **revoked**. DU PREE, formerly with the Kansas City, Kansas, Police Department, had his certification rescinded after being convicted of Aggravated Sexual Battery, Aggravated Assault and Attempted Aggravated Criminal Sodomy in the District Court of Wyandotte County. Under Kansas law, a person who is convicted of a felony cannot retain his/her law enforcement certification.
- On June 30, 2004, the law enforcement certification of **JOHN WARREN**, 52 years of age, was **revoked**. WARREN, of Lawrence, Kansas, formerly the Director of Washburn University Police and Campus Safety had his certification rescinded after being convicted of Felony Theft in the District Court of Crawford County.

Disciplinary actions taken by the Commission during the past twelve months include:

- On December 4, 2003, the law enforcement officer certification of **WALTER F CADUE**, also known as FRED CADUE, 43 years of age of Versailles, Missouri, was **revoked**. CADUE, formerly with the Hiawatha Police Department, surrendered his certification for a violation of the moral character standard (official misconduct and deceitful) of the Kansas Law Enforcement Training Act.
- On December 24, 2003, the law enforcement certification of **GABRIEL GARCIA**, 35 years of age of Sunnyvale, California, was **revoked**. GARCIA, formerly with the Shawnee County Sheriff's Office, had his certification rescinded for violating the moral character standard (false training reports and deceitful) of the Kansas Law Enforcement Training Act.
- On December 24, 2003, the law enforcement certification of **LEE MOODY**, also known as L BROCK MOODY, BROCK MOODY, STANLEY BROCK LANA, 32 years of age of Garnett, Kansas, was **revoked**. MOODY, formerly with the Allen County Sheriff's Office, had his certification rescinded for violating the moral character standard (deceitful) of the Kansas Law Enforcement Training Act.

- On February 19, 2004, **JAMES L BETTLES**, 61 years of age of Enterprise, Kansas, was placed on **probation** for a period of five (5) years. **BETTLES**, formerly of the Enterprise Police Department, was disciplined for failing to report his required continuing annual training, as required by the Kansas Law Enforcement Training Act, for the past five (5) years.
- On February 19, 2004, the Commission's Hearing Committee directed the Summary Order of Revocation served on **WILLIAM DEMPSEY JR**, 59 years of age of Baldwin City, Kansas, be vacated. **DEMPSEY**'s law enforcement officer certification had been revoked on July 7, 2003, after it was learned he was convicted of a felony in California in 1964. The Committee ruled that a California court order issued on September 9, 2003, reducing the felony conviction to a misdemeanor was valid and **DEMPSEY** "shall retain his law enforcement officer certification."

The Kansas Commission on Peace Officers' Standards and Training (KS•CPOST), a 12-member body appointed by the Governor, oversees law enforcement training and officer standards in the State of Kansas. Among many duties and responsibilities is that of granting certification to all Kansas full and part-time officers who meet the qualifications for certification.

The Commission may suspend, revoke, or deny the certification of a police or law enforcement officer who fails to meet the requirements of the Kansas Law Enforcement Training Act or has met such requirements by falsifying documents or failing to disclose information required for certification.

Additionally, the Commission may publicly or privately censure, reprimand, or place on probation, a police or law enforcement officer or an applicant for certification, for violations of the Training Act, and may also suspend or revoke, or deny, the certification of any such officer or applicant.

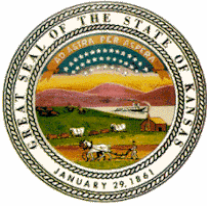
The Commission has an investigative process to follow-up on reports of alleged Training Act violations. Procedures are in place to actively make inquiries into reports of officers

failing to meet the requirements of the Training Act or to investigate allegations of falsifying documents to meet the requirements. Investigations are also conducted in matters relating to law enforcement officer standards.

Alleged violations can be reported to the Commission in writing to PO Box 632, Hutchinson, Ks 67504-0632, faxing (620) 694-1440, by calling (620) 694-1430, or sending an e-mail to invs@kscpost.org.

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LKG/lkg
[M:mr/040517]



**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS•CPOST)**

MEMORANDUM

DATE: June 17, 2004

TO: Chairman Darrell L Wilson

FM: Lanny K Grosland

RE: Administrative Disciplinary Hearings

Per our past conversations, attached is a draft policy concerning Administrative Disciplinary Hearings for your review.

At their last meeting, the Commission's Investigative Committee (CIC) reviewed and concurred with the attached policy, however, did not feel it was their place to introduce it to the full Commission for adoption. It was their opinion it should be submitted to you for consideration and if you desire, necessary action.

The changes to the current policy would be:

- ✓ The Special Investigator would set a date and location for an administrative hearing for a matter to be considered by the entire Commission;
- ✓ Before a disciplinary hearing could be conducted at least a majority of the KS•CPOST membership will be required to be present; and
- ✓ Adverse action could not take place without the approval of a majority of the Commission members present for the hearing.

This policy would eliminate the three (3) member (with one alternate) Hearing Committee and place that responsibility with the entire Commission. It is the opinion of the CIC's legal counsel that Investigative Committee members could participate in disciplinary hearings despite the fact they were the ones who were initially briefed on the allegations and made

CC: Commission Investigative Committee
Director Welch

ATCH # 8
KS•CPOST MEETING
10/27/04

the preliminary decision on how to proceed with disciplinary action.

One obstacle, if you should want to proceed with this proposal, are a couple of Kansas Administrative Regulations (KARs). KAR 106-1-1 defines the hearing panel as three members of the Commission and KAR 106-1-3 states "the hearing board shall hear the charges." On May 28, 2004, the attached memorandum requesting an opinion as to whether or not the Commission could change the "hearing policy" was sent to Commission Counsel Kyle Smith. As of this date no response has been received.

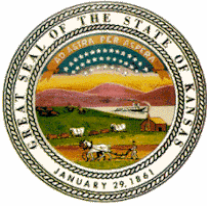
The CIC was informed you had mentioned the possibility of eliminating the Investigative Committee. They are not in favor of that, but are receptive to:

- ✓ Making their routine meeting dates* and agendas known to all members of the Commission;
- ✓ Welcoming their presence at meetings, participation, input; and
- ✓ Involvement in making investigative and disciplinary decisions.

LKG/lkg
[M:0406/03

Atch

* The CIC normally meets the first Thursday of every other month.



KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING **DRAFT**
(KS•CPOST)

6/3/04

ADMINISTRATIVE DISCIPLINARY HEARINGS

In accordance with KSA 74-5607 and KSA 74-5616 the Kansas Commission *on* Peace Officers' Standards *and* Training (KS•CPOST) adopts the following measures for conducting administrative disciplinary hearings:

- ✓ Upon the completion of an investigation or inquiry the Commission's Special Investigator (SI) shall prepare a *Prosecutive Report of Investigation* and forward a copy of the same to members of the Commission Investigative Committee (CIC). In those matters involving a limited investigation, the SI may present a verbal briefing concerning results of an inquiry at a scheduled meeting of the CIC.
- ✓ At a subsequent regularly scheduled meeting the CIC shall decide if a matter should be closed without further action or if the Commission should proceed with administrative disciplinary action. Disciplinary action normally will consist of one of the following:
 - Warning;
 - Public Reprimand;
 - Suspension of Certification; or
 - Revocation of Certification.
- ✓ If the CIC recommends a public reprimand, suspension of certification, or revocation of certification, the SI shall make an inquiry to the respondent to ascertain if he/she will accept the suggested disciplinary action.
- ✓ If the respondent is willing to accept the suggested disciplinary action, the SI shall take the appropriate action as specified by the CIC.
- ✓ In the event the subject officer fails to respond to an offer or informs the Investigative Committee that he/she will not voluntarily accept the recommendation of the CIC, the SI will forward the appropriate file to the KANSAS ATTORNEY GENERAL'S OFFICE (KSAG) for review and the initiation of administrative disciplinary action.

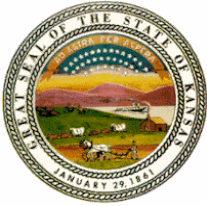
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- ✓ In those matters where the respondent is currently employed as a law enforcement officer and the CIC has probable cause to believe that there is an immediate danger to the public safety and/or welfare and after consulting with the commission counsel, the Commission shall take action pursuant to KSA 77-536.
- ✓ Upon the issuance of a petition by the KSAG, in accordance with the Kansas Administrative Procedure Act the SI shall set a date and location for an administrative hearing to be considered by the entire Commission.
- ✓ For the purposes of disciplinary hearings, at least a majority of the Commission membership shall be present for the consideration of a disciplinary matter. Adverse action shall not take place without the approval of a majority of the Commission members present for the hearing.

Previous policy in conflict with this procedure is null and void. This procedure supercedes all previous procedures issued regarding administrative disciplinary hearings.

Approved on the ***** day of ***** 2004, after a motion was made to consider this policy, seconded, and voted upon by the Kansas Commission *of* Peace Officers' Standards and Training at an open meeting.

DARRELL L WILSON
Chairman
Kansas Commission *of* Peace Officers'
Standards and Training



**KANSAS COMMISSION *on* PEACE OFFICERS'
STANDARDS *and* TRAINING
(KS-CPOST)**

MEMORANDUM

DATE: May 28, 2004

TO: Kyle Smith
Commission Counsel

FM: Lanny K Grosland

RE: Administrative Disciplinary Hearings

The Chairman has expressed an interested in drafting policy whereby in the future the entire Commission would hear administrative disciplinary matters rather than having the Hearing Committee deal with such matters.

At their last meeting the Commission's Investigative Committee (CIC) directed me to draft a policy whereby:

The CIC would be retained and function as it does currently; and

The Hearing Committee would be dissolved and disciplinary hearings would be heard by the full Commission.

Kansas Administrative Regulation (KAR) 106-1-3 states "the hearing board shall hear the charges." Can the Commission adopt such a policy or do they have to change KAR 106-1-3(b)?*

Attached is KAR 106-1-1, which defines the hearing board, and KAR 106-1-3.

LKG/lkg
[M:0405/05]

Atch

* The CIC meets on June 2, 2004, and this matter is on their agenda.

CC: Chairman Wilson
Commission Investigative Committee
Darin Beck, KLETC

ATCH # 10
KS-CPOST MEETING
10/27/04

Kansas Administrative Regulation 106-1-1

106-1-1 Definitions. As used in these rules and regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section:

- (a) "Commission" means the Kansas law enforcement training commission created by K.S.A. 74-5606 and amendments thereto.
- (b) "Hearing board" means a hearing panel comprised of three members of the commission appointed by the chairman.
- (c) "Certification" means that a person has been certified to perform the function of law enforcement by the commission.
- (d) "Certified law enforcement officer" means:
 - (1) Those law enforcement officers, as defined in K.S.A. 74-5602(e), who were employed by a law enforcement agency prior to July 1, 1969, and who therefore are certified under K.S.A. 74-5607a;
 - (2) Those law enforcement officers, as defined in K.S.A. 75-5602(e), who have successfully completed a certified basic training course in the state of Kansas after July 1, 1969;
 - (3) Those law enforcement officers, as defined in K.S.A. 74-5602(e), who have been certified under reciprocity agreements with other states; and
 - (4) Railroad policemen who were appointed pursuant to K.S.A. 66-524.

(Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984.)

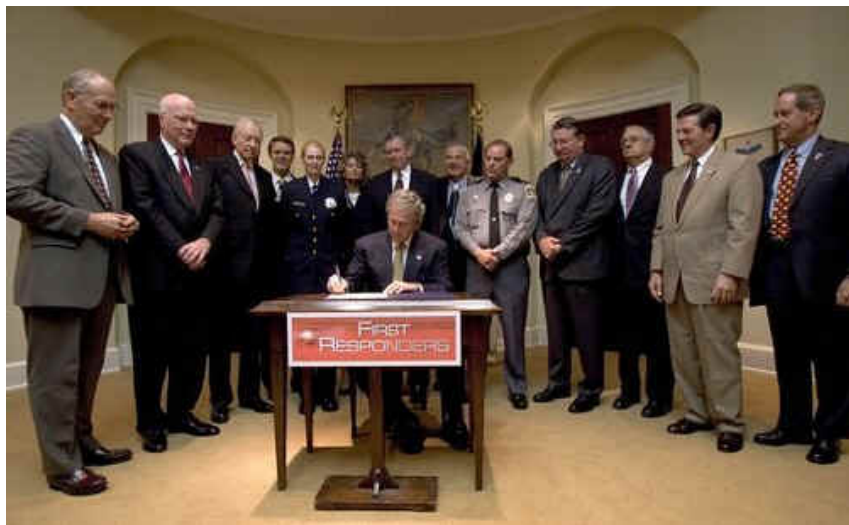
Kansas Administrative Regulation 106-1-3

106-1-3 Investigation and hearings on charges.

- (a) Upon the verified, written complaint of any person setting forth facts which, if proven, would constitute grounds for denial, suspension or revocation of certification, as herein set forth, the commission shall investigate the actions of any officer holding or claiming to hold a certification. The commission may also initiate such an action upon its own motion. The commission shall, before denying, suspending or revoking any certification, give written notice of any charges made to the applicant or holder of such certification at least 20 days prior to the date set for hearing. The commission shall afford such a person an opportunity to be heard in person or by counsel in reference to the charges. The written notice may be served by personal delivery to the accused person, or by mailing the notice by registered or certified mail.
- (b) At the time and place fixed in the notice designated by the commission, the hearing board shall hear the charges and shall afford both the accused person and the complainant ample opportunity to present any statements, testimony, evidence and arguments that may be pertinent to the charges or to any defense thereto. One member of the hearing board shall be designated as chairperson. The chairperson may continue the hearing from time to time.

(Authorized by and implementing K.S.A. 1983 Supp. 74-5616; effective, T-84-31, Nov. 22, 1983; effective May 1, 1984; amended May 1, 1985.)

H.R. 218 NOW LAW *



WASHINGTON - Today, in a Roosevelt Room Ceremony the bill which we have come to know simply as H.R. 218 was signed into law by President George W. Bush.

Also known as the "National Concealed Carry for Cops" legislation and the "Law Enforcement Officers Safety Act of 2004," this new law allows law enforcement officers to carry their weapons while off duty between states.

It is expected that guidance on this law will come down from the State Attorney General's Office, and we strongly recommend that officers wait until such time before carrying their weapons over state lines.

We would like to offer some warnings for all to heed.

First, when in another state you will be subject to the use of force laws of that state. Additionally, the laws of arrest, self defense, and firearms in other states will be different and will govern any actions taken.

Second, and this goes double for uniformed officers, you have to identify yourself. You need to identify yourself by badge and by word. Officers who work primarily in uniform are the worst at this since they are not accustomed to identifying themselves at scenes. The uniform takes care of that. When identifying yourself, use the loudest voice possible so witnesses will hear you and be able to corroborate your account of the incident later.

Below we have provided a basic breakdown of the new law. We again caution that guidance should be sought by your agency and/or the Attorney General's Office before acting on this new law. Also, at the bottom of the page we have provided a link which will bring you to the actual text of the new law.

Okay, what is it?

...an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

* <http://www.njlawman.com/Feature%20Pieces/HR%20218.htm>

For whom does it apply?

This law applies to persons who meet the definition listed below of a "Qualified Law Enforcement Officer."

qualified law enforcement officer means an employee of a governmental agency who--

`(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

`(2) is authorized by the agency to carry a firearm;

`(3) is not the subject of any disciplinary action by the agency;

`(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

`(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

`(6) is not prohibited by Federal law from receiving a firearm.

What kind of "Identification" is Necessary?

(d) The identification required by this subsection is the **photographic identification** [emphasis added] issued by the governmental agency for which the individual is employed as a law enforcement officer.

What am I Prohibited from Carrying?

(e) As used in this section, the term `firearm' does not include--

`(1) any machinegun (as defined in section 5845 of the National Firearms Act);

`(2) any firearm silencer (as defined in section 921 of this title); and

`(3) any destructive device (as defined in section 921 of this title).

What About us Retired Guys?

Yes, the Law Enforcement Officer Safety Act of 2004 applies to retired officers who meet the law's definition of "qualified retired law enforcement officer."

How does the Law Define "Qualified Retired LEO?"

(c) As used in this section, the term `qualified retired law enforcement officer' means an individual who--

`(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

`(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

`(3) (A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

`(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

`(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

`(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

`(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

`(7) is not prohibited by Federal law from receiving a firearm.

What about Identification for Retired Officers?

(d) The identification required by this subsection is--

`(1) a **photographic identification** [emphasis added] issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

`(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

`(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

H.R.218: The Law Enforcement Officers Safety Act of 2004 *
(Enrolled as Agreed to or Passed by Both House and Senate)

One Hundred Eighth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the twentieth day of January, two thousand and four

An Act

To amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Law Enforcement Officers Safety Act of 2004'.

SEC. 2. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) In General- Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

' Sec. 926B. Carrying of concealed firearms by qualified law enforcement officers

' (a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

' (b) This section shall not be construed to supersede or limit the laws of any State that--

' (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

' (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

' (c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who--

' (1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

' (2) is authorized by the agency to carry a firearm;

* <http://www.leea.org/218/218text.html>

` (3) is not the subject of any disciplinary action by the agency;

` (4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

` (5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

` (6) is not prohibited by Federal law from receiving a firearm.

` (d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

` (e) As used in this section, the term `firearm' does not include--

` (1) any machinegun (as defined in section 5845 of the National Firearms Act);

` (2) any firearm silencer (as defined in section 921 of this title); and

` (3) any destructive device (as defined in section 921 of this title).'

(b) Clerical Amendment- The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:

` 926B. Carrying of concealed firearms by qualified law enforcement officers.'

SEC. 3. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) In General- Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

` Sec. 926C. Carrying of concealed firearms by qualified retired law enforcement officers

` (a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

` (b) This section shall not be construed to supersede or limit the laws of any State that--

` (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

` (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

` (c) As used in this section, the term `qualified retired law enforcement officer' means an individual who--

` (1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

` (2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

` (3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

` (B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

` (4) has a nonforfeitable right to benefits under the retirement plan of the agency;

` (5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

` (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

` (7) is not prohibited by Federal law from receiving a firearm.

` (d) The identification required by this subsection is--

` (1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

` (2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

` (B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

` (e) As used in this section, the term `firearm' does not include--

` (1) any machinegun (as defined in section 5845 of the National Firearms Act);

` (2) any firearm silencer (as defined in section 921 of this title); and

` (3) a destructive device (as defined in section 921 of this title).'

(b) Clerical Amendment- The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:

` 926C. Carrying of concealed firearms by qualified retired law enforcement officers.'

Vice President of the United States and President of the Senate.

10/12/04
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