

KANSAS LAW ENFORCEMENT TRAINING COMMISSION

COMMISSION MEETING MINUTES TABLE OF CONTENTS & ATTACHMENTS November 18, 2003

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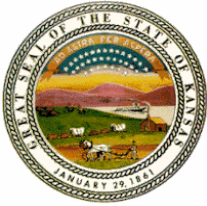
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Attachments

<u>NUMBER</u>	<u>DESCRIPTION</u>
1	Press release from Governor Kathleen Sebelius, dated November 10, 2003
2	Press release from Governor Sebelius, dated July 19, 2003
3	Enforcement Policy concerning the late submission of <i>Demographic and Employment Information</i> and/or <i>Notice of Termination or Status Change</i> forms, dated August 7, 2003
4	General information document concerning the Commission, revised November 7, 2003
5	Commission Roster, revised November 5, 2003
6	Committee Assignments, revised November 11, 2003
7	Commission Disciplinary Proceedings for the period from August 24, 1998 to September 11, 2003
8	Commission Media Release, dated August 7, 2003
9	Color photograph of Collins office building acquisition
10	Color photograph of Collins office building acquisition
11	Position Announcement for Police Continuing Education Coordinator
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19	Briefing: Response to Terrorism for Kansas
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21	"Doehring Committee" proposal concerning Required Agency Reporting, dated April 21, 2003
22	Kyle Smith "Gypsy Cops" proposal regarding Required Agency Reporting
23	Proposal, dated January 6, 2003, regarding Law Enforcement Powers as discussed at the January 28, 2003, Commission meeting
24	Proposed amendment to KSA 21-4619 (Expungement of Records)
25	Florida Criminal Justice Standards & Training Commission (CJSTC) rules for Certification and Employment or Appointment
26	Arizona Administrative Code relating to Peace Officer Standards and Training Board Background Investigation Requirements

- 27 Letter from John Wolf, dated February 5, 2003
- 28 In-Service Training Guidelines for Kansas Law Enforcement, dated July 1, 2001
- 29 LETN Homeland One, a public safety training and communication strategy
- 30 Memorandum, dated November 24, 2003, Re Municipal Training Reimbursement Fund - FY03
- 31 Kyle Smith's testimony in opposition to HB 2041 before the House Corrections and Juvenile Justice Committee, dated February 3, 2003

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KANSAS LAW ENFORCEMENT TRAINING COMMISSION

COMMISSION MEETING MINUTES

November 18, 2003

Welcome and Introduction of Guests

Chairperson Darrell Wilson called the meeting to order at 10:30AM at the University of Kansas Continuing Education, Lawrence, Ks.

Members present were: Chairperson Darrell L Wilson, Chief James Braun, Lt Colonel Sam F Breshears, Chief Ray D Classen, Chief Lee D Doehring, Lieutenant Joe T Gimar, Sheriff James F Jarboe, County Attorney David L Miller, Sheriff Bob G Odell, Colonel William R Seck, Sheriff Gary E Steed and Director Larry D Welch.

Also present were Assistant Attorney General Lee J Davidson, Commission Counsel Kyle G Smith and Special Investigator Lanny Grosland.

Representing the University of Kansas Continuing Education were Dean JoAnn A Smith, Kansas Law Enforcement Training Center (KLETC) Director Ed H Pavey (ex-officio Commission member), KLETC Associate Director Ron Gould, and KLETC Assistant Director Dave Warry. Not present from KLETC was Legal Counsel Darin L Beck, who is currently on active duty with the United States Army.

Chairman Wilson welcomed the newest members of the Commission:

Hays Chief of Police James Braun replacing Director Ronald Pickman who resigned from the Commission on June 30, 2003;¹ and

Kansas Highway Patrol (KHP) Colonel William R Seck, who was appointed Superintendent of the KHP, effective July 8, 2003.²

Approval of Minutes of Last Meeting

The Chairperson entertained a motion to approve the Minutes of the January 28, 2003, Commission meeting, which was moved by

¹ Atch #1: Press release from Governor Kathleen Sebelius, dated November 10, 2003.

² Atch #2: Press release from Governor Sebelius, dated July 19, 2003.

Chief Ray D Classen and seconded by Sheriff Bob G Odell. The motion carried.

Report of Special Investigator

Status of Pending Investigations

Special Investigator (SI) Lanny K Grosland reported the following matters were scheduled for hearings:

Former Hiawatha police officer Walter F Cadue for a violation of the moral character standard of the Training Act for allegedly aiding in the destruction of evidence;

Former Shawnee County deputy sheriff Gabriel Garcia for a violation of the moral character standard for allegedly submitting a false training report;

Former Allen County deputy sheriff Lee B Moody for a violation of the moral character standard of the Training Act for being deceitful; and

Former Baldwin City police officer William B Dempsey Jr for allegedly being convicted of a felony.

Petitions have been received from the Attorney General's Office and hearings will be scheduled regarding the following matters:

Enterprise Chief of Police James L Bettles for allegedly failing to submit annual training for the training years 1999, 2000, 2001, 2002 and 2003; and

Former Pratt County deputy sheriff Tory D Foster for a violation of the moral character standard of the Training Act for allegedly committing an act of domestic violence.

SI Grosland also provided Commission members with updates on the following investigations:

Former Pratt police officer Michael McGuire, who was charged with numerous felony counts of Making False Information in the RENO COUNTY DISTRICT COURT, has surrendered his certification. It was recently learned that the RENO COUNTY DISTRICT ATTORNEY'S OFFICE had dismissed all of the charges approximately one year ago without the knowledge of the Commission.

The matter concerning former Woodson County Sheriff Mark Brilke was once again referred to the ATTORNEY GENERAL'S OFFICE (KSAG) to ascertain if they would proceed with administrative disciplinary action. They declined administrative prosecution and this matter will now be closed.

The status of investigations as of November 13, 2003, was:

Active:	174
Pending:	11
Inactive:	23
Closed:	106

Convictions:	41.7%
W/Out Prosecution:	40.7%
Prosecution Declined:	1.9%
Unfounded:	15.7%

Enforcement Policy Concerning Late Submission of Employment and Change of Status Information

The Commission's Investigative Committee (CIC) has reviewed a proposed change in the enforcement policy regarding the late submission of employment and change of status information to the Kansas Law Enforcement Training Center (KLETC). The CIC approved the following additions and/or revisions to the former policy:

- ✓ There is no longer a distinction between actions which would require mandatory training and those actions that do not require training.
- ✓ The length of the "lateness" is no longer a factor.
- ✓ If an agency goes two (2) years without a late submission, the "slate is wiped clean."
- ✓ The second *Reminder Letter* sent by KLETC will reflect that subsequent violations will be referred to the Commission for disciplinary action.
- ✓ The CIC, when considering administrative disciplinary actions, will consider taking action against the agency rather than the agency head.

Director Larry Welch inquired what disciplinary action would be taken against a department. Grosland advised the department could receive a reprimand and/or be required to pay the costs of an administrative investigation.

Grosland provided Commission members with a copy of the revised enforcement policy.³

Miscellaneous Disciplinary/Investigative Information

Grosland provided Commission members with the following documents and asked they call him if they had any questions or comments:

General information document concerning the Commission, revised November 7, 2003;⁴

Commission Roster, revised November 5, 2003;⁵

Committee Assignments, revised November 11, 2003;⁶

³ Atch #3: Enforcement Policy concerning the late submission of *Demographic and Employment Information* and/or *Notice of Termination or Status Change* forms, dated August 7, 2003.

⁴ Atch #4

⁵ Atch #5

⁶ Atch #6: It should be noted on January 28, 2003, Chairman Darrell Wilson appointed County Attorney David L Miller to serve on the Reimbursement Committee to replace Chief Ray D Classen.

Commission Disciplinary Proceedings for the period from August 24, 1998 to September 11, 2003;⁷ and Media Release, dated August 7, 2003.⁸

Meeting at Attorney General's Office

Grosland reported on April 14, 2003, Chairman Darrell Wilson, KLETC Director Ed H Pavey, KU Chief Legal Counsel Jim Pottorff and he met with Deputy Attorney General Eric Rucker, Assistant Attorney General (AAG) Lee J Davidson and AAG Andrew Bauch in Topeka. During the meeting the following issues were covered:

- √ The previous ATTORNEY GENERAL'S OFFICE (KSAG) proposal that an attorney on the KLETC staff handle prosecutions was discussed. It was agreed that proposal was not practical. AAG Davidson will handle administrative prosecutive matters for the Commission.
- √ Grosland's reappointment as a Special Investigator with the KSAG was approved.

Grosland then introduced AAG Davidson, who has been assigned the responsibility of prosecuting matters for the Commission. He's assigned to the Criminal Division and was the Deputy Sumner County Attorney before joining the KSAG.

Report of Assistant Attorney General

Assistant Attorney General (AAG) Lee J Davidson explained in the past that an assistant attorney general from the Civil Litigation Division handled the prosecution of Commission matters. That function has been transferred to the Criminal Division of the Attorney General's Office. Part of the problem in the past was that the person assigned to Commission matters had no prior experience with law enforcement or criminal prosecution. Davidson noted that he had worked for several years as a criminal prosecutor and a major portion of his current job is involved in the prosecution of criminal matters. He could foresee a problem in the future if, as an example, he is involved in the administrative prosecution of an officer and later he is assigned to handle a criminal prosecution for the same agency, working with officers who were friends of the officer that he had previously administratively prosecuted. If that should happen, they will just have to deal with it if a problem arises. On the positive side, Davidson feels there will be better communication between the Kansas Attorney General's Office (KSAG) and the Commission since their office is often

⁷ Atch #7

⁸ Atch #8

involved in the criminal prosecution of law enforcement officers as the local county attorney is frequently uncomfortable in handling such matters or feels there could be a conflict. Because of his contact with other assistants in the Criminal Division they can consider resolving criminal matters by taking into consideration administrative disciplinary action during plea negotiations.

When the Commission's Investigative Committee (CIC) forwards a matter to the KSAG for consideration, Davidson will review the matter and make a recommendation based solely on the evidence and the law. Davidson reported that he will not second guess the wisdom of the CIC's decision, he will leave that up to the Deputy Attorney General (DAG) and the Attorney General (AG). He will provide the DAG and AG with a synopsis of the matter and if Davidson feels they should proceed with administrative disciplinary action, he will prepare a petition for the AG's signature.

On a couple of occasions the AG has suggested other avenues be pursued, which Davidson has communicated to the CIC. For example, in the matter involving the Enterprise Chief the AG wanted to give him another opportunity to submit his training. They requested the Undersheriff of Dickinson County contact the chief in an attempt to resolve the matter. In a couple of matters the AG has contacted officers who worked with the officer under investigation and received their opinion as to if they should or ought not proceed with disciplinary action.

Although Davidson was not in the KSAG during the prior administration, he feels the current AG will be more of a "hands on" attorney general whereas in the past that was not the case. The final decision to proceed with administrative action will rest with the AG.

Report of Director Ed H Pavey

Physical Plant

Collins Office Building Acquisition⁹

Director Pavey distributed photographs of the newly acquired Collins office building and land. Purchase of the property was approved by KUCE Dean JoAnn Smith, as well as the KU Chancellor and Provost. The Board of Regents approved the purchase in September, and the Joint Building Committee approved it in October. The closing date is set

⁹ Atch #9 & #10: Color photographs of Collins office building acquisition.

for next Tuesday (11/25/04). Collins is moving their office staff to Hutchinson.

The photographs show the land and the office building which are included in this acquisition. The building will be used for additional classroom space and office space.

The plan is to have the building operational by fall 2004, at which time some of the administrative offices will be moved to the new building as well as the central registry and some support staff.

Welch Hall

The Welch Hall hot water pressure project has been completed. A quarter of a million dollars was spent to increase water pressure and capacity due to the increase in the number of students living in the dormitory.

Staffing

Legal Instructor

In August 2003, Theresa Pasek was hired as a second legal instructor. Theresa had been previously employed as legal instructor for the Kansas Highway Patrol.

Hiring Process

KLETC has experienced high turnover in several of its classified positions. This is a result of relatively low salaries, and driving distance to get to KLETC. This problem will be addressed through an attempt to get some of the key positions reclassified to higher salaried positions. Positions for which we have recently hired or will soon hire new staff are the registrar, two training assistants and secondary receptionist.

Reassignment of Administrative Duties

Since the last commission meeting, duties of some of the KLETC administrative staff have been reassigned. Dave Warry, Assistant Director, now handles all of the basic training programs. Ron Gould is now handling the budget, curriculum-related issues, hiring processes and various other tasks.

Continuing Education Coordinator¹⁰

This is a new position for which KLETC is currently recruiting applicants. The position closes on November 20, 2003. Currently, forty (40) applications have been received. One of the duties of this position will be to

¹⁰ Atch #11: Position Announcement for Police Continuing Education Coordinator.

identify one or two weeks of the basic training program which could be converted to Internet-based training. This concept would allow an officer who has just been hired by an agency to get on the Internet and participate in an interactive program on various subjects before they arrive at the academy. Upon arrival to KLETC for basic training, they would then be tested on these subjects which they completed via the Internet. If they do not pass the test, they would then be required to retake that class. Associate Director Gould showed the group a demonstration of this type of training. Director Pavey advised, as an example, that the state of Nebraska has developed an interactive reserve officer training program which they should share with us. We could take the program and make it Kansas-specific or KLETC-specific and provide it via the Internet to agencies which have no other training mechanisms.

This will be an on-going project which will take time to develop.

Instructor Interviews

During May and June, Director Pavey and Associate Director Gould spent one to one and a half hours with each KLETC instructor. Each instructor was given a list of questions to answer before the interview took place. From the interviews, a list of twenty-five (25) issues was created on how to enhance their abilities as instructors, the teaching environment, etc. Some involve budget issues, some involve policy changes. These will be discussed and an effort will be made to implement these ideas to the extent possible within existing resources.

Director Pavey advised they will go through the same process with the KLETC support staff after the first of the year.

Legal Counsel

Darin Beck, KLETC Legal Counsel, has been on active military leave since February 2003. He recently reported his commanding officer has advised him, tentatively, that he may be released from active duty on January 15, 2004. Everyone looks forward to getting Darin back on board.

Programs

KLETC has just completed their first full year of the 560-hour basic training program. In review, it has been very successful. The new GE ISIMS driving simulators are now being used during basic training, with great success. In conjunction with emergency vehicle operations training,

they have proved to be a very useful judgmental decision-making tool.

Associate Director (AD) Ron Gould advised that about five basic training classes have been conducted using the new curriculum. Each of the satellite academies have also conducted at least one class using the new curriculum, as well. A survey has been done on the pro's and con's of the curriculum. Feedback has been received, and work will begin on reviewing and making needed changes. The review process will be an on-going process which will always be needed to keep the curriculum up-to-date.

The testing mechanism has also been a challenge to make sure procedures are validated. AD Gould has chaired a committee to accomplish this.

Admission Delay Issues

The law allows that an officer can be appointed to an agency on a provisional basis not to exceed one year, and that their training has to occur within that one year unless an extension is granted. Currently, everyone is getting trained within a year.

With the increase from a 9-week to a 14-week program, an admission delay was possible. To avoid admission delays, the decision was made to run simultaneous basic training classes, in an off-set manner. This was done with the 173rd and 173A classes, as well as the 174th and 174A classes. Forty-eight (48) slots were assigned to each class, and none of the classes were full. Each class started with 42 - 43 students. This was due to some administrators wanting a later enrollment date. This results in empty slots in the class about to start, and students being placed in later classes in slots that could have been used by others awaiting training.

On November 10, 1998, the Training Commission approved a policy which states that agencies will use the next available class. But, it is strictly a voluntary policy. It is not written in the statute. Therefore, there is no way to enforce the policy.

A problem encountered with the two forty-eight (48) person classes operated simultaneously was that it overwhelmed the instructional staff. It was then decided that seventy-two (72) students would be more manageable. This resulted in a need to hold a twenty-four (24) student class to start in January, which is now full. Registrations are also being taken for a seventy-two (72) person class to start March 8, 2004. Currently, thirty-eight (38) are registered for that class.

The Collins building fits into the need for more classroom space to address these issues.

Associate Director Ron Gould advised that this is a problem that was anticipated when the move was made to the 560-hour curriculum. The solution seemed to be the over-lap basic training classes. What was not anticipated was the difficulties this would cause the instructional staff. Steps were taken to reduce the class size to take some of the pressure off the instructors, which resulted in the admission delay.

The only solution at this point is to start a new class every seven (7) weeks, with up to sixty (60) students in each class. With the addition of the Collins building, KLETC will have sufficient classroom space to handle this load. Staff wise, however, KLETC does not have enough instructors to handle this. Therefore, we will be requesting additional instructors in the FY05 budget.

Chief Doehring distributed a proposed resolution which he previously prepared, directing KLETC to make every effort to accommodate and reduce delays, encouraging administrators to send their officers to training as soon as possible, and asking budget authorities to give their support to do whatever is necessary to get officers trained as efficiently as possible.

Director Pavey advised that in January 2006, it will be necessary to ask for additional financial support from the legislature. One possible alternative funding would be to request a percentage of homeowner's and car insurance policies. KBI Director Larry Welch advised this was proposed in 1986, and was unsuccessful due to opposition from the insurance commissioner and lobbyists for the insurance industry.

Director Pavey advised that the docket fee funding source is saturated and will soon be insufficient in terms of funding all the needs of the training center, and alternatives will have to be found.

Director Pavey recommended a letter be drafted for the chairman's signature regarding issues caused by delayed enrollments to be mailed to all agency administrators in the state.

Associate Director Gould recommended waiting on the pursuit of a statutory change until we see whether the addition of the additional classroom space at the Collins building and addition of instructors may solve some of these issues.

[Note: The Commission recessed for lunch at 12 Noon
and returned at 12:45PM.]

Discussion continued regarding admission delay issue and decision was made to proceed with adopting the motion prepared by Chief Doehring.

Director Pavey advised he anticipates this resolution would be beneficial when approaching the University in regard to this issue and the seeking of additional resources.

A motion was made to approve the Admission Delay Resolution¹¹ by Director Welch and seconded by Lt Col Sam Breshears. The Resolution was approved by the Commission.

FY03 Statistical Data

KLETC trained 234 full-time officers last year, with 220 being certified. Approximately 6% did not complete the training, for various reasons. Forty-two (42) part-time officers were trained, with thirty-seven (37) being certified. Twenty-nine (29) reciprocity students were trained, with twenty-eight (28) completing the training. Twenty-two (22) persons attempted the challenge exam, with twenty-one (21) passing the exam. Sixty-seven (67) continuing education events were held, with 1,080 attendees. During the past year 1,472 officers attended twenty-seven (27) Telenet 2 presentations, averaging about 73% attending the afternoon sessions, and 27% attending the evening presentations. Since we started utilizing the distance learning program, 8,025 have attended presentations since its inception in 1996.

Docket Fee Income and Spending¹²

Between municipal court and district court fees, KLETC's income was 2.9 million dollars in the last fiscal year. Spent were 2.7 million dollars, with the remainder of the money being used toward the Collins building purchase.

Municipal court docket fees did not meet their projections for the year. District court docket fees, however, exceeded projections. Overall, \$22,000 more was taken in than projected.

Central Registry Update FY03

On-line reporting is moving forward. One hundred forty-nine (149) agencies are currently using the on-line reporting of continuing education. Forty-seven (47) are sheriff's

¹¹ Atch #12: Resolution concerning admission delays.

¹² Atch #13 thru 18: District Court and Municipal Court Fee Income.

offices, and 102 are municipal police agencies and state agencies. This represents 73% of the full-time officers in the state. Sixty-six (66) departments have from eleven to twenty-five (11-25) full-time officers.

Starting again in January 2004, on-line data entry training will be held the first Tuesday of each month. Anyone wishing to enroll for this training should contact the KLETC registrar.

In the future KLETC hopes to have demographic and status-change employment forms entered on-line if the legal issues regarding signatures can be resolved.

Grant Applications

Weapons of Mass Destruction First Responder Training

The KU Continuing Education recently submitted an application to the Kansas Highway Patrol for flow-through grant dollars to train city managers, police, fire and EMS throughout the state in the next year and a half on basic response to weapons of mass destruction. KUCE sent a proposal as part of a solicitation of bids from across the state. Others submitting proposals included WSU, Washburn University and K-State. A response has not yet been received on this grant application.

PriMedia Grant; Encrypted Communications Network with LETN Programming

With the backing of Senator Sam Brownback, a grant application has been submitted to the Justice Department to install LETN programming in 360 police and fire sites across Kansas. If this is approved, it will be a one million dollar grant split between Fire Service and KLETC. KLETC is currently looking at locations throughout the state to find a geographical balance. This program will be used to provide 24-hour LETN training, which will focus a great deal on weapons of mass destruction training. The program will also provide a secure homeland security communications network through an encrypted satellite network which will deliver emergency messages. Ron Jackson, retired Newton police chief, and formerly deputy chief of the Overland Park police department, has been contracted with to coordinate this program. If any agency is interested in participating in this program, they should contact Director Ed Pavey or Jackson.

Other KLETC Issues and/or Accomplishments

Leadership Kansas tour was held at KLETC in August, and went very well.

Also in August, the biannual legislative bus tour, consisting of members of the Senate Ways & Means, House Appropriations and the Joint Building Committee came to KLETC.

Ron Gould and Jack Leon coordinated the Kansas Police Administrators Seminar at KLETC.

Gould, Leon and other staff also coordinated the Sheriff's Association training, KPOA training and KACP training.

The 14th annual golf tournament was held and was a great success, thanks to the efforts of Dave Warry.

A student was dismissed from the 174th basic due to a physical confrontation with another student. The student was fired by his agency. An investigation was conducted, disciplinary determination was made, and due process given to the student. He did not appeal the dismissal.

Planning is being done currently on the 2004 New Sheriff's Orientation school. Letters have been sent out to all county clerks informing them there will be a charge this year for the school. The school will be held at KLETC.

Remarks From Dr JoAnn Smith, Dean of KU's Division of Continuing Education

Response to Terrorism for Kansas¹³

Dean Smith gave a briefing on behalf of the Committee on Kansas Security regarding terrorism response training which is being held through KU Continuing Education. Dean Smith distributed information on this subject.

Overview: University Outreach and Continuing Education¹⁴

Dean Smith advised these university resources are available for staff to use in any way that may be beneficial to them.

Old Business

Reimbursement of Tuition/Additional Sanctions [KSA 74-5609a(b)]

Director Ed Pavey reported the Commission needed to decide if this matter should be removed from the agenda or if the Commission should consider additional action.

This matter has to do with agencies hiring officers within a year from the time they graduate from a certified academy, sometimes referred to as "stealing officers." This issued has been discussed in the past and the Commission has considered and

¹³ Atch #19: Briefing: Response to Terrorism for Kansas.

¹⁴ Atch #20: Overview: University Outreach and Continuing Education.

discussed extending the time limit to two (2) years and adding some "teeth" to the current statute.

Chairman Darrell Wilson noted in the past the Commission had discussed as to what expenditures should be included in the reimbursement to the "losing" agency and if specific expenses should be spelled out in the statute.

A proposed bill was to be introduced during the 2003 legislative session, however, one was never introduced.

After a short discussion Chairman Wilson proposed this matter be removed from future agendas. No Commission members objected to that suggestion.

Required Agency Reporting of Training Act Violations

Lanny Grosland advised at the last Commission meeting the Chairman appointed a committee consisting of Chief Lee Doehring, Kyle Smith and with the Chairman's subsequent approval, members of the Commission's Investigative Committee. This "Doehring Committee" decided to adopt provisions from the Arizona statute.¹⁵

This proposal has three key elements:

- ✓ An agency may report officer misconduct or failure to comply with the Training Act to the Commission at any time and must report it not later than thirty (30) days after an officer's termination, resignation or separation from the agency.
- ✓ At the request of a law enforcement agency conducting a background investigation the Commission or an agency employing or having employed the applicant must provide any alleged or known misconduct, etc.
- ✓ Civil liability may not be imposed on an agency or the Commission for providing information.

Smith offered another proposal, which he described as simpler and easier than the "Doehring Committee" proposal.¹⁶ Smith advised his offer does not have, that the first proposal has, is the legal language about other misconduct or the civil liability immunity section.

Smith suggested if the first proposal was adopted, the immunity section probably should also include officers in addition to an agency.

Chairman Darrell Wilson reported he felt required agency reporting was an excellent idea and something was needed to "keep the bad apples from getting back in the barrel."

¹⁵ Atch #21: "Doehring Committee" proposal concerning Required Agency Reporting, dated April 21, 2003.

¹⁶ Atch #22: Kyle Smith "Gypsy Cops" proposal regarding Required Agency Reporting.

Director Larry Welch also felt it was a great idea, but suggested under current state law that state agencies were prevented from sharing employment information concerning terminations. Smith reported if a specific statute that required the sharing of termination information was in effect, they could share such information.

Grosland advised currently when an agency terminates an officer for cause, he makes an inquiry to ascertain the reason for the termination. A good share of these agencies request a subpoena before they will release the information. He also reported some agencies have called after an officer has resigned and suggest they be subpoenaed for the information surrounding the resignation as they feel the officer should not be a certified law enforcement officer.

Smith reported his proposal was an amendment to an existing statute and it was easier to get an amendment to an existing statute introduced in the legislature than it was to add a statute.

Chief Doehring made a motion to adopt Smith's "Gypsy Cops" proposal for submission to the legislature. The motion was seconded by Sheriff Gary Steed. After a discussion the motion was passed with an amendment to include the civil liability section.

Commission Law Enforcement Powers

Lanny Grosland advised the "Doehring Committee" also considered this matter after it was initially discussed at the last Commission meeting.¹⁷ The "Doehring Committee" agreed Kyle Smith would offer a legislative proposal to give the Commission Chairman the ability to designate certain Commission employees with the authority of law enforcement officers. This matter was initially discussed at the last Commission meeting.

Smith reported he had discussed this proposal with Deputy Attorney General Eric Rucker and "he was not to thrilled with the concept." He advised the Attorney General's Office is satisfied with the current procedure of having the Commission investigator receiving a Special Investigator appointment from their office and they apparently did not want to give up that power and authority.

Grosland pointed out he did not receive the Attorney General's commission until June. He also noted that realistically that authority was not being used, however, for psychological reasons it was good to have law enforcement officer authority while interviewing other law enforcement officers. This proposal would

¹⁷ Ath #23: Proposal, dated January 6, 2003, regarding Law Enforcement Powers as discussed at the January 28, 2003, Commission meeting.

be beneficial if, at a later date, the Commission would hire a part-time contract investigator. In such a case, the Chairman could designate that contract employee as a law enforcement officer.

Smith advised the Commission could move forward with the proposal without the Attorney General's blessing, but it would put him in an awkward spot.

Chairman Darrell Wilson ordered no additional action be taken concerning this matter.

Amendment to KSA 21-4619 (Expungement of Records)

Kyle Smith reported at Lanny Grosland's suggestion, he was offering an amendment to the Expungement of Records statutes.¹⁸ His proposal consisted of two parts:

- ✓ If a person is applying for a law enforcement position, he/she must disclose arrest, conviction, or diversion information; and
- ✓ Grants authority to the Training Commission to obtain expungement information.

Sheriff James Jarboe questioned as to why this proposal was needed since the current statute specifics that expungement information is available regarding law enforcement officer applicants. Grosland noted that was correct, however, that information was not available when conducting investigations concerning employed law enforcement officers, who are not applicants. Grosland pointed out there have been situations where persons are hired and not fingerprinted as required. In those situations, under the current law, the Commission is not entitled to obtain expungement information because the officer being investigated is no longer an "applicant."

Sheriff Jarboe made a motion the proposal be presented to the legislature, which was seconded by Chief Lee Doehring and passed by the Commission.

Definition of Moral Character

Lanny Grosland reported the moral character issue was discussed in length during the last Commission meeting. The "Doehring Committee" discussed this matter and decided the Commission should not adopt a definition for moral character.

The Commission's Investigative Committee (CIC) will use the "investigative guidelines" they adopted during their June 5, 2003, meeting.

¹⁸ Atch #24: Proposed amendment to KSA 21-4619 (Expungement of Records).

Chief Lee Doehring pointed out the Attorney General's Office has advised moral character is anything the Commission defines it to be. He does not feel the Commission should "lock itself" into a definition today that will not be applicable from two to five (2-5) years from now.

There was no additional discussion regarding this matter.

New Business

Background Investigation Requirements

Lanny Grosland requested the Commission consider adopting a proposal to amend the Training Act to add the provision whereby the Commission could adopt policy requiring agencies conduct background investigations. He noted some agencies currently do not do any background investigations, while some do extensive investigations. What Grosland wanted to find out was if the Commission was interested in looking at this matter, and if so, he would draft some policy as to what should be included when conducting applicant background investigations.

Director Ed Pavey advised the Commission could request legislation that would require agencies conduct a background investigation using standards established by the Commission. He pointed out they are finding more and more agencies are not conducting background investigations.

Grosland passed around for members to review the Florida Criminal Justice Standards and Training Commission's Rules¹⁹ and the Arizona Administrative Code concerning background investigation requirements.²⁰

Grosland advised all he was asking was, is the Commission interested in pursuing this matter? And if so, he would introduce at a subsequent Commission meeting specific policies that could be adopted for conducting background investigations.

Sheriff Gary Steed questioned if there was an interest by departments to require background investigations. He felt there probably was more of an interest by departments to learn what they should do and was concerned some of the smaller departments maybe wanted to do backgrounds, but did not have the resources to conduct complete background investigations.

Chief Lee Doehring advised he would rather the Commission approach the problem by providing training in conducting background investigations rather than requiring agencies conduct

¹⁹ Atch #25: Florida Criminal Justice Standards & Training Commission (CJSTC) rules for Certification and Employment or Appointment.

²⁰ Atch #26: Arizona Administrative Code relating to Peace Officer Standards and Training Board Background Investigation Requirements.

them. By providing the training, hopefully there would be voluntary compliance.

Director Pavey offered that the Commission could come up with a suggested background investigation check-list that could be disseminated to Kansas agencies.

Director Larry Welch advised the felt providing training and furnishing guidelines for conducting backgrounds was a good idea. However, he did not feel the Commission should propose a law that would require agencies conduct background investigations because of the backlash that would result from such a proposal. He also pointed out Kansas was not a POST state and most smaller agencies could not afford to conduct complete background investigations.

County Attorney David Miller inquired if the Commission was just talking about a minimum background check. Grosland then provided the following list of what some states require an employing agency must do:

- Make inquiries concerning an applicant's prior law enforcement employment.
- Submit applicant fingerprint cards for state and national criminal records check in addition to NCIC criminal history and wanted person inquiries.
- Conduct urine analysis for presence of controlled substances.
- Accomplish inquiry to determine if the applicant is of good moral character.
- Certify that they accomplished the following:
 - ✓ Neighborhood investigation
 - ✓ Previous employment inquiries
 - ✓ Local law enforcement records check
 - ✓ Verification of military history
 - ✓ Contacted personal references
 - ✓ Checked driving record
- Contact state Commission on standards/training for verification of applicant's past law enforcement employment and for facts/reasons of applicant separation from previous employment.
- Verify proof of US citizenship.
- Confirm education reported.
- Administered polygraph examination (recommended only).
- Document the results of the background investigation.

Director Welch reiterated that Kansas agencies would not endorse such a move by the Commission and Chief Doehring reported he felt the Commission was extending itself beyond its authority if they pursued such a proposal. County Attorney Miller said the Commission is certifying these officers and maybe certain minimum background investigation standards should be required.

Director Pavey noted that he thought that was the legislature's intent when they required certain tasks be performed, such as a fingerprint check, before an officer could attend the academy. He recommended they present to the Commission suggested guidelines for review at the next meeting. Sheriff James Jarboe agreed with that proposal, however, did not think Grosland should be the one to prepare those guidelines because of his investigative workload. Director Pavey reported the Training Center did not have anyone available to prepare the guidelines until Darin Beck returned from his military duties.

[Note: The Commission recessed for a break at approximately 1:45PM and returned at 2PM.]

Letter from John Wolf (Retired, KU Continuing Education)

A letter received from John Wolf was provided to members in which he expressed gratitude to the Commission for the plaque and resolution presented to him by Director Ed Pavey.²¹

Homeland One Grant: Training Credit Hours

Director Ed Pavey provided Commission members with a copy of the In-Service Training Guidelines for Kansas Law Enforcement²² and referred them to the section dealing with video/computer/multi-media/satellite-based training. He pointed out the current policy only allows not more than twenty (20) hours can be claimed for this type of training. Director Pavey asked the Commission whether they wanted to consider revising this limitation because of the increased training that will be provided in Homeland Security²³ utilizing satellite-based technology. The Commission declined to revisit this rule.

Future Recognition of Past Commissioner Ron Pickman

Director Ed Pavey reported that with the Commission's blessing and authorization they were moving forward in purchasing a plaque and asking Pickman to be present at the next Commission meeting to be recognized for all of his years of service with the Commission.

FY03 Municipal Court Reimbursement (KSA 74-5620 Schedule)

Lanny Grosland advised following the Commission meeting, the Municipal Reimbursement Committee would meet to approve the

²¹ Atch #27: Letter from John Wolf, dated February 5, 2003.

²² Atch #28: In-Service Training Guidelines for Kansas Law Enforcement, dated July 1, 2001.

²³ Atch #29: LETN Homeland One, a public safety training and communication strategy.

municipal academy payments for Training Year 2003. A memorandum reflecting the reimbursements and number of graduates will be provided to Commission members in the near future.²⁴

Other Miscellaneous Commission Concerns

Concerns Regarding Disciplinary Actions

Director Larry Welch noted sometimes he was concerned when the Commission decertifies an officer that he was not aware how the action got started, why it was done, what the officer did wrong and it was because of the system whereby one committee looks at the incident, another committee makes a decision and it is announced the Training Commission took disciplinary action. He pointed out the Training Commission did not actually do it, rather it was a couple of committees that took the action. There have been times when the Chairman, nor the Vice-Chairman, could not answer a question if the media had called.

Lanny Grosland pointed out that all Commission members are currently provided with a investigative summary with a synopsis of reported violations. Director Welch was requesting information as to "how come or why" a reported violation was accepted. Chairman Darrell Wilson agreed with Director Welch because his name "goes out on a lot of stuff" and he does not know a lot about what is going on. Chairman Wilson advised he had a lot of faith in the Investigative Committee, the Hearing Committee and Grosland "to be doing the right thing," but still his name is on that final document.

It was pointed out by Grosland that a respondent could appeal the decision of the Hearing Committee to the full Commission and those members who were aware of investigative details could not hear such an appeal.

Chief Lee Doehring advised once a petition was filed it became a public record and that document could be provided to all members of the Commission. Grosland stated currently the petition is attached to a Notice of Hearing and those documents are distributed to Hearing Committee members.

Sheriff James Jarboe inquired if Director Welch and Chairman Wilson wanted a report from the Investigative Committee to every member of what they are looking at or agreed to proceed with.

Kyle Smith advised if the Commission was willing to give up their right to hear an appeal, they could appoint a hearing officer to handle any appeals from the Hearing Committee. The

²⁴ Atch #30: Memorandum, dated November 24, 2003, Re Municipal Training Reimbursement Fund - FY03.

Administrative Procedures Act allows a board to give up their right to hear appeals.

Chief Ray Classen suggested that Grosland provide Director Welch and Chairman Wilson with a copy of the agenda for Investigative Committee meetings and a copy of the minutes from those meetings. Director Welch was in favor of that, however, Grosland reported there was not a lot of detail as to facts in those meeting minutes. Director Welch indicated the actual details were not necessary, but he would like to know how the violation came to the attention of the Commission and who reported it. Grosland advised in the future he would provide Director Welch and Chairman Wilson with the Initial Report of Investigation. However, often violations are reported by police officers who do not want to be identified. In those instances the reporting persons name is not reflected in the Initial Report of Investigation and they are assigned a confidential source number. Grosland stated he did not have a problem telling any member of the Commission who reported a violation, he just did not want that name in a report.

Testimony in Opposition to HB 2041

Kyle Smith offered to the Commission his testimony in opposition to HB 2041, which would allow citizens of foreign countries to become law enforcement officers in Kansas.²⁵

Next Meeting Date

An e-mail had been sent to Commission members to ascertain available dates for the next meeting. Not all members have responded to that e-mail.

Adjournment

The meeting adjourned at 2:30PM.

LKG/LAW/EHP:lkg/law
3/17/04
[C:minutes/031118]

²⁵ Atch #31: Kyle Smith's testimony in opposition to HB 2041 before the House Corrections and Juvenile Justice Committee, dated February 3, 2003.