

# Kansas Commission on Peace Officers' Standards and Training

(KS•CPOST)

Commission Meeting Minutes  
KS-CPOST Office - 1999 N Amidon Ste 350  
Wichita KS  
January 28, 2010

KS•CPOST Members Present	KS•CPOST Staff
Commissioner John Carmichael, Chairman	Steven R. Culp, Executive Director
Commissioner Richard Barta	Eric Williams, Legal Counsel
Commissioner Robert Blecha	Vicki Mork, Administrative Assistant
Commissioner Sam Breshears	Amy Kirk, Central Registry Manager
Commissioner Terry Maple	John Gaunt, Investigator
Commissioner Steven Stowers	Joe Herridge, Investigator
Commissioner David Miller	Matthew Deffner, Staff & IT Support
Commissioner Michael Keller	
<b>Attending by conference call:</b>	<b>KLETC Staff</b>
Commissioner Dean Bush	Ed Pavey, KS Director of Police Training
Commissioner James Jarboe	Mark Damitio Deputy Asst Director
Commissioner Vernon Ralston	John Green, Associate Director
Commissioner Ellen Hanson	Darin Beck, Deputy Director
	Lisa Webster, Director's Assistant
	Mark Baumgardner, Deputy Asst Director -IT
	Dave Warry, Assistant Director

The meeting began at 10:35 am with the Pledge of Allegiance and a moment of silence to honor slain Sedgwick County Deputy Brian S. Etheridge, killed in the line of duty September 28, 2009.

Chairman Carmichael called roll. Eight commissioners were in attendance and four commissioners Bush, Jarboe, Hanson and Ralston attended by conference call. Chairman Carmichael said he hoped the meeting would finish by 3 pm and noted inclement weather was forecast for Kansas this day. He said if the weather got bad the meeting could end sooner. Also if a commissioner had to leave due to responsibilities related to the weather the Commission would understand.

Chairman Carmichael explained there were a number of items on the agenda including one which involved a disciplinary matter. Details will be provided as to why it's coming before the Commission. A hearing is to be conducted for a man seeking reinstatement and he's available on one hours notice. Chairman Carmichael tentatively set the hearing for 1:00 pm right after lunch with appropriate notice to the gentleman. However if someone has another time in mind, he wants to know that. No alternate time offered.

Chairman Carmichael introduced and welcomed Commissioner Michael Keller, the newest member of the commission. He brings extensive experience in law enforcement and is currently serving as Chief of Police in Andover, he is retired from the Wichita Police Department and also served as Chief of Police in Wellington for five years.

The next item of business was introduction of commission and staff. However, since Commissioners introduced themselves at roll call Chairman Carmichael requested Executive Director Culp begin the staff introductions which segued into guest introductions. All attendees are listed at the beginning of the minutes.

#### **Chairman of the Commission Report**

Chairman Carmichael said priorities were set at the last commission meeting regarding KS-CPOST back logged cases. Progress has been made and Executive Director Culp will make a detailed report. The chair thanks all for their efforts in making progress on these cases.

Chairman Carmichael expressed concerns about the State of Kansas budget and the reserves of KS-CPOST. The Commission needs to decide if KS-CPOST can, should or are we able to proceed with some of the projects that are earmarked for the reserves. One specific project is updating the computerized registry and matters of that type. Need to first determine if the state will allow spending on a new project at this time and second, is there is enough funding to accomplish an update. And finally, do we want to keep the funds lying there knowing future allocations may be made by the legislature to other programs not related to KS-CPOST. The Commission ought to give Executive Director Culp some guidance on this matter so all can be responsible for the outcome together.

On another matter, the previous KS-CPOST chairman made suggestions regarding the compensation of Executive Director Culp. Budget times are tight but there are Commissioners in this room that know a lot more about the State of Kansas budgetary process and the compensation process for Executive Director Culp's position, as well as Eric's position and the remainder of the KS-CPOST staff. If time permits Chairman Carmichael would like to take a few minutes today, or if not today then at the next meeting, to visit with Executive Director Culp in executive session regarding matters related to executive compensation and performance issues. This will allow us to touch base with him.

Chairman Carmichael said the Continuing Education Policy needs to be reviewed and updated as the policies and guidelines have not been revised since 2001. KS-CPOST does promulgate regulations related to continuing education requirements for officers in Kansas. Since KS-CPOST separated from KLETC responsibilities have changed and they no longer match Kansas Statutes very well. There may be a need for more substantive revisions. In an informal discussion with Executive Director Culp, he proposed developing guidelines with input from the professional law enforcement organizations like the Kansas Sheriff's Association, Kansas Association of Chiefs of Police, Fraternal Order of Police, Kansas Peace Officers Association and KLETC. Chairman Carmichael encouraged Commission members to think about ways to accomplish this so Executive Director Culp and Mr. Williams, agency counsel will not have to handle this without help.

The Commission should devise a plan to review and revise the policy and guidelines; may want to form a subcommittee of commission members or simply vest Executive Director Culp with authority to appoint a working group to undertake this task and bring the training guidelines up to date.

Chairman Carmichael said the final matter that concerns him are the Administrative Regulations. As the Commission approaches the administrative hearing later on today there are some reasons we need to review these regulations. This matter is not a high priority of KS-CPOST at this time but should be worked on as resources permit. Chairman Carmichael concluded his report saying no motion was needed but he would answer questions. Hearing none he moved to the next agenda item.

#### Investigative Committee Report

Executive Director Culp explained Commissioners Jarboe, Ralston and Stowers make up the Investigative Committee with Commissioner Jarboe serving as the chairman. The committee met January 8, 2010 along with the KS-CPOST executive director, investigators and counsel. At this time there are 500 cases that need to be reviewed but not many of them will require action.

At this meeting the committee reviewed cases found by the investigators that require action due to State Statute. Executive Director Culp reviewed the listing of Summary Orders of Revocation that have been issued. No Commission action was needed as a point of law requires decertification of the law enforcement officers in these cases. Refer to Summary Order of Revocation (See Appendix page 2a) for specific names and charges. Chairman Carmichael had a question about #8 Gary Tabor. Was he convicted of misdemeanor rather than felony charges. KS-CPOST counsel Eric Williams clarified that Gary Tabor was convicted of misdemeanor Domestic Battery. Chairman Carmichael asked that the record be amended to reflect that.

A voluntary surrender of law enforcement certification requires a commission motion. The following were made:

- Motion to accept voluntary surrender of law enforcement certification by Bruce Voigt made by Commissioner Breshears. Motion seconded by Commissioner Hanson. Commissioner Blecha abstained and the motion passed unanimously. (See Appendix page 1)b Official Motion 2010 M 002)
- Motion to accept voluntary surrender of law enforcement certification by David L. Waddell made by Commissioner Maple. Motion seconded by Commissioner Stowers. Commissioner Blecha abstained and the motion passed unanimously. (See Appendix page 1)c Official Motion 2010 M 003)
- Motion to accept voluntary surrender of law enforcement certification by Jody Livengood made by Commissioner Miller. Motion seconded by Commissioner Keller. Commissioner Blecha abstained and the motion passed unanimously. (See Appendix page 1)d Official Motion 2010 M 004)

In other disciplinary matters Steve Lewis, Halstead Police Department, claimed training that he did not attend. Irregularities were noticed and investigated. He agreed to a letter of reprimand and no access to online training until further notice. The Investigative Committee can initiate the letter of reprimand with no action needed from the Commission. So far this year 19 officers have lost their certification. No other year shows action being taken on so many officers.

A letter of reprimand is a matter of public information on any officer. In the past press releases were sent out to publicize the action taken. Today information of any disciplinary action is displayed on the KS-CPOST website. Executive Director Culp asked if the Commissioners wanted to publicize these matters in any way besides the web site. The current listing of disciplined law enforcement officers

dates back to 1985. Commissioner Breshears said he was not in favor of doing press releases but the public posting on the KS-CPOST website is appropriate. Other commissioners agreed with his position.

Executive Director Culp expressed appreciation to the Investigative Committee for their day's work on these matters on January 8, 2010. Staff investigators have reviewed all cases from 2005 and only the cases from 2004 and 2003 remain to be reviewed. Chairman Carmichael extended his appreciation to the Investigative Committee and KS-CPOST staff for their work in clearing up the backlog of cases.

### Hearing Committee Report

Committee chairman Commissioner Breshears reported there was no activity. Commissioner Barta commented on the John Hurla case for information purposes. He reviewed the case facts of the hearing from last June, 2009. John had not concealed his diversion from a felony theft conviction received when he was 18 years old. The diversion was declared on his application when he was hired as a dispatcher for the Prairie Band Potawatomi Tribal Police and overlooked when he was promoted to patrol officer for them and accepted into KLETC for training. Mr. Hurla self reported this matter a few years ago when a citizen made an issue of his diversion. This was reported to his chief and that's when the investigation began. It resulted in a hearing and action taken to decertify Mr. Hurla because the Kansas Law Enforcement Training Act clearly states an applicant cannot have a Felony diversion.

It is true Mr. Hurla was a good dispatcher and has had no further legal problems. This seemingly unfair situation has prompted Mr. Hurla to approach Senator Hensley to introduce Senate Bill 352 which, if it's approved, will probably become the John Hurla bill. Because there is a provision in it that states: the provision of Paragraph 3 Sub section (a) shall not apply to an applicant that has successfully completed a single diversionary program for non person felony acts committed when such applicant was 21 years of age or younger. If commensurate of successful diversionary agreement was no less than 10 years prior to the issuance of the certificate. Commissioner Barta explained he wanted the commission to know this was pending.

Chairman Carmichael asked if it would be appropriate to deviate from the agenda to hear from KS-CPOST general counsel Eric Williams relative to what was in Senate Bill 352, Senator Hensley's original bill. Hearing no objection the discussion continued. The chair also indicated he had a couple of conversations with Senator Hensley about this bill. Mr. Williams said he appreciated Commissioner Barta's explanation of the facts. He explained that Mr. Hurla accepted a diversion for a burglary charge, as well as a theft charge. Pursuant to having a felony diversion in his past Mr. Hurla does not qualify under Statute 74-5605 to be a law enforcement officer. A summary order was issued to decertify Mr. Hurla to which he objected and a hearing was held and he was subsequently decertified. The day of the hearing Mr. Hurla indicated he had been in contact with Senator Hensley and he hoped in the future there would be some resolution.

Senator Hensley recently introduced Senate Bill 352 (See Appendix page 3)a & 3)b ) which is more expansive than indicated. It basically states that anybody who has been diverted for a felony, convicted of a felony, or a crime of domestic violence under the age of 21 would still be eligible to be a law enforcement officer. This is in opposition to Kansas State Statutes and Federal Law which state a person convicted of a felony or a crime of domestic violence cannot own a firearm.

A sampling of POST organizations throughout the United States shows all are consistent with the Kansas guidelines disallowing an applicant who has been diverted for a felony, convicted of a felony, or a crime

of domestic violence. Reviewing the model standards of the International Association of Directors of Law Enforcement Standards and Training (I.A.D.L.E.S.T.) shows they are consistent with the guidelines as well. State Statute and Federal Statutes also uphold this position, quoting from the ATF's Regulations Reference Guide an applicant with a Felony conviction, or conviction of Domestic Violence cannot be allowed.

Mr. Williams said after talking with various people he believed Senator Hensley was going to contract that back. If this change occurs with the bill Mr. Williams does not think it clashes with Federal law concerning possession of a firearm, and clears a lot of the obstacles he just outlined for the original senate bill. There is an Attorney General's Opinion which talks about being adjudicated as a juvenile for a felony and can still be admitted to the academy but one who was diverted as a juvenile for a felony cannot.

Chairman Carmichael announced that the phone connection with Commissioner Jarboe had broken and suggested a break while the connection was reestablished. The meeting was recessed at 11:25 am for a short break. The meeting was reconvened at 11:32 am.

Chairman Carmichael explained that at his request KS-CPOST Counsel Eric Williams provided an excellent memorandum on short notice that was shared with Senator Hensley which persuaded him to narrow the scope of his proposed legislation. Director Pavey commented that when an agency head seeks to enroll an officer in basic training they are required to complete pre-training evaluation forms. Form I lists all of the state requirements for a peace officer including those that say no felony convictions (or diversions), No expunged Felony convictions, or misdemeanor convictions (or diversions) for domestic violence are allowed and the applicant must be of good moral character. The school receives only the signed form from the agency head attesting the student meets all of the requirements. There is no background information included. At the time John Hurla was admitted to KLETC the student did not have to sign off on the information but they do now. Commissioner Barta assured Director Pavey that he wasn't implying there was any issue on KLETC's part in allowing John Hurla to attend and graduate from KLETC.

Commissioner Breshears began his remarks saying by the time this commission meets again the current legislative session will be over. He continued asking if the Commission wants to take a stand on Senate Bill 352 or the amended Senate Bill 352.

Commissioner Miller observed that when the legislature enacts a bill for a specific purpose, person or cause it makes bad law. Commissioner Maple said Senate Bill 352 has been reviewed by professional law enforcement agencies in Kansas and they are all against it, no one is in favor of allowing exceptions. He also agrees with Commissioner Breshears observation that now is the time for action by the Commission. Commissioner Miller suggested the Commission inform the Senate that we are satisfied with the law as it stands now. Chairman Carmichael asked if the Commission wanted to authorize Executive Director Culp and Commission Counsel Williams to offer oral testimony in opposition to any bills that would amend the current statute.

Commissioner Hanson said Senate Bill 352 was a seriously bad bill and she supported whatever the Commission and KS-CPOST wanted to do to inform the Senate they should not make any changes to the Statute. Commissioner Blecha said he agreed with all who had already spoken and he stated his opposition to the proposed change in the law allowing any individual to become a law enforcement

officer after they have been convicted, had the conviction expunged or received diversion on a felony charge. He said KS-CPOST should take a stand against changing that law.

Commissioner Breshears made a motion that the Commission supports the statutes, KSA 74-5616 and KSA 74-5616 as currently written and is opposed to any amendments or changes as introduced in Senate Bill 352. Executive Director Culp of KS-CPOST and Counsel Eric Williams are authorized to testify in opposition to any amendments or changes proposed by Senate Bill 352. Commissioner Blecha seconded the motion.

Discussion of the motion included Commissioner Stowers asking if Senator Hensley would receive this message. Chairman Carmichael assured him that would happen. Commissioner Miller suggested that all members of the committee hearing this bill should receive this information as well. Chairman Carmichael said the best way to accomplish this through the legislative process was to have the KS-CPOST staff submit testimony to the Committee in opposition to any changes that seek to amend the present statute. Commissioner Barta removed himself from this vote as did Chairman Carmichael as he has discussed the legislation Senator Henson on this matter. The motion passed unanimously with Commissioners Barta and Carmichael abstaining. (See Appendix page 1)e Official Motion 2010 M 005)

#### **Municipal Reimbursement Committee Report**

Executive Director Culp said there was no report at this time but a committee meeting would be scheduled soon. He explained he recently conducted a survey and will share the results with the committee. Commissioner Keller was named to the committee.

#### **State of Kansas Director of Police Training Report**

Director Pavey began with a progress report on the American Recovery Act's S.T.O.P. Violence Against Women Program grant received from Governor Parkinson's office. It is an 18 month project lasting through April 2011. Mary Stolz Newton has been hired as the program manager for the grant program. She will begin the second week of February. She will conduct training at KLETC and throughout the state. There is also grant funding for a half time registrar position and a part time technology specialist. Other vacancies at KLETC include an accountant position developed following Mary Caton's retirement which allowed her position to be upgraded.

Capital Improvements Report: Phase I project is completed and open. A few items remain but are close to resolution. Phase II project completion is projected to be March for the buildings. The driving course is nearly done. The tower project begins with the foundation being poured this week so the prefabricated tower can be installed after that. There was an ADA issue with the required elevator for the observation tower. However Darin Beck, Deputy Director of KLETC successfully challenged that ruling and the elevator was eliminated allowing KLETC to spend the \$200,000 on training instead.

Graduation for the 205<sup>th</sup> Class was held last Friday at Integrity Auditorium and it was well attended. Several members of the Commission and KS-CPOST staff attended. The next graduation ceremony, for the 206<sup>th</sup> Class, will be held on March 26, 2010. Director Pavey urged all Commission members to attend if at all possible as Kansas Governor Mark Parkinson will be the commencement speaker.

Docket fee revenues are slightly reduced but fairly stable. They continue looking fairly decent for the current fiscal year. Because the fees are generated through Court docket fees it is possible that Highway Patrol vacancies, as well as sheriff's office and police department vacancies could impact these fees if

fewer numbers of law enforcement officers are providing traffic enforcement. If fewer officers and deputies are available to enforce traffic laws then fewer tickets translate into reduced docket fees.

The FY '10 budget was approved for KLETC with an authorization to spend \$6.4 million. However, Director Pavey does not anticipate spending to be at that level because revenues are down and like everyone else cost containment measures have been taken. .

A Basic Training Summary-FY 09 document was handed out and will be a part of the record of this meeting. Director Pavey reviewed the information. The current student numbers are down as fewer new staff are being hired across the state due to budgetary constraints.

Director Pavey reported he and his staff have been actively participating in the Governor's Racial Profiling Taskforce meetings. Director Pavey said he appeared before the group in November to explain the annual KLETC training on Racial Profiling that is presented in cooperation with Herman Jones, Director of Administration for the Kansas Highway Patrol. It is presented across the state as mandated by statute.

The training has been a stop-gap type approach as KLETC lacks the staff and funding to present this training for everybody in the state on an annual basis. KLETC has asked the Taskforce to scale this training back to every other year. Met with good responses from the co-chairs of the committee and some of the members, however there are some legislative members on the task force that feel strongly about annual training. We will continue recommending every other year. Not sure any change will happen this year due to time constraints.

The Racial Profiling Taskforce committee was reconstituted last year and efforts are being made to bring new members and the new co-chairs up to speed. The new members include a representative of the African American Commission and the chair of the Hispanic Affairs Commission. Director Pavey said he had talked with the previous executive director of the African American Commission about using some of their grant money to hire a coordinator that would coordinate and/or deliver the training. This idea was further developed as KLETC staff prepared a position description and a budget.

This proposal was taken to the Commission over a year ago but set on the back burner. More recently this suggestion was resurrected and given to both of the new executive directors who are receptive to the idea of presenting a plan at the next Commission meeting. KLETC has offered to provide office space. Some members of the community have expressed concerns about law enforcement officers training law enforcement officers. Director Pavey feels this approach, involving the other commissions in the process would address the concern. Until another plan is developed by either the legislature or the Commission as a whole, Directory Pavey and Commissioner Maple, with the Kansas Highway Patrol, remain committed to continuing the stop gap approach training.

Commissioner Bush, also a member of the Governor's Task Force, said Director Pavey's report is on target. He continued by saying the input of Director Pavey and participation of Herman Jones, Highway Patrol has been invaluable. The mandatory training statute of the task force allows for training every year. However, with all the new members appointed making a much more diverse task force the training is the least of the issues at this time, for instance there has been no discussion on data collection.

Commissioner Bush does not anticipate any legislative action this year. He had some concerns that community groups might push some legislation through on their own. Commissioner Bush sees the Task Force's challenge as bringing balance to input from both the general public around the state and the law enforcement community. He said he thought the Task Force was going to solicit support from community organizations for no new legislation this year. The Kansas Sheriff's Association, of which he is a member, had received a request for support from them which will be considered at their board meeting next week.

Commissioner Maple agreed with Commissioner Bush and Director Pavey, he sees the new appointees and the new co-chairs getting reorganized and updated. He said Herman Jones was conducting training today and his absences for training have impacted the staff at KHP. But he feels this is an important issue and law enforcement should be trained in this area.

He continued saying there was recent action on Senate Bill 179, it was taken off the calendar and moved back to committee. He believes there is a desire for the Task Force to evaluate issues thoughtfully and make reasonable recommendations which could be considered in a legislative process. Not just rushing in some legislation.

Commissioner Bush, following up on Director Pavey's suggestion for training through the joint efforts of the African American and Latino Commissions generated a lot of interest. He said the Task Force was also budgeting to bring Dr. Friedel back to work with the Task Force on data collection. Director Pavey pointed out Commissioner Bush provides dual coverage representing both the Kansas Sheriff's Association and KS-CPOST on the Task Force and does an outstanding job.

Chairman Carmichael said that he had been encouraged and invited to attend the task force meetings by Co Chairman Watson. He believes there is adequate representation by the Commission and unless there is a request from them to expand his duties and attend the meetings at this time he will forgo them. Hearing none this is settled.

Chairman Carmichael continued saying it is within the scope of the Commission to recommend biennial training rather than annual classes. However it just depends on the Commission as to the extent of involvement. Executive Director Culp said the issue that was most pressing for KS-CPOST is the matter of agencies submitting their Racial Profiling Training to Central Registry Manager, Amy Kirk. According to the statute it is to be done yearly with an end of year report given to the Attorney General's office with reported violators. It would be much simpler for KS-CPOST to monitor and report on Racial Profiling Training violators if their training year was designated as the State of Kansas fiscal year which coincides with KS-CPOST training year. Commissioner Bush said the change was part of the legislation proposed last year which died in committee. He said he was sure that change would be a part of any proposed legislation in the future.

Commissioner Bush asked if the Task Force on Racial Profiling requested a letter from KS-CPOST, along with other Kansas law enforcement organizations, in support of the proposed moratorium on racial profiling legislation this year would KS-CPOST be ready to provide such a letter. Chairman Carmichael responded that the issue would be decided by the entire Commission.

Commissioner Breshears agreed a letter supporting the committee's recommendations of no new legislation this session would be an excellent idea but suggested that it also include the issues discussed



today like the biennial training and utilizing a full time training position: Commissioner Bush suggested a motion saying "we" (KS-CPOST) supported the Task Force position of no changes to the statutes this legislative session. Commissioner Breshears proposed a letter from the Commission to the Task Force asking that no amendments to the statute be adopted this session. Commissioner Bush thought the Commission should hold off on sending the letter until asked for it by one of the Co-Chairs.

Commissioner Breshears made a motion that KS-CPOST support the Task Force position of a moratorium on racial profiling legislation during this session. Commissioner Hanson seconded the motion.

Discussion followed. Commissioner Miller expressed some concern about this approach, wondering if KS-CPOST appeared to be dodging issues that needed attention. Chairman Carmichael shared support for the same concern, saying this endorsement of the existing statute maintains the status quo and places KS-CPOST in the position of advocating the retention of a statute that needs serious revision. Commissioner Breshears explained that given the Task Force's history, the current budgetary issues facing the state and law enforcement and the rejuvenation of the Task Force that KS-CPOST is not oppositional and wants to contribute substantively to this but at this time it's better to hold off. Commissioner Bush reiterated his concern that legislators would vote on whatever legislation that came before them concerning racial profiling and he preferred they vote on well thought out legislation. Commissioner Keller expressed concern about supporting a no change position in a letter when we have concerns that need to be addressed. Perhaps the letter could acknowledge issues exist while supporting the task force's position to hold tight for this legislative session. The training is recognized as being redundant.

Chairman Carmichael suggested the group recess for lunch and seek consensus on this issue upon return. He would like to schedule the hearing for 1:30 pm.

Meeting recessed for lunch at 12:25 pm and reconvened at 1:05 pm.

Upon returning from lunch Executive Director Culp handed out copies of an email he received from Mike Watson, co-chair of the Governor's Task Force on Racial Profiling, requesting a letter of support be sent to Senator Brungardt. The email will be included in the record of the meeting. (See Appendix page 4)a) The email explained the need for the letter to Senator Brungardt, Chairman of the Senate Federal and State Affairs, supporting a moratorium on racial profiling legislation for the 2010 legislative session. Both the Governor's Office and Senator Brungardt support this plan.

Discussion on Commissioner Breshears motion ended and it came to a vote. The motion passed unanimously. (See Appendix page 1)f Official Motion 2010 M 006 )

KLETC director, Ed Pavey, continued his report. He explained that one student of the 205<sup>th</sup> Basic Class was dismissed for academic misconduct. The student appealed but the dismissal was upheld due to the facts of the case and what happened. In response to a class assignment to write an affidavit, this individual submitted one from a college class. It was recognized by the instructor and the student was dismissed for plagiarism. Assistant Director Dave Warry does an excellent job keeping the recruits in line while attending KLETC.

Work on the Board of Regents Curriculum Realignment Process continues. Participants include Director Pavey, Executive Director Culp, Eric Williams and Darin Beck, all are actively involved. The Board of

Regents and the Kansas Tech Authority are realigning the curriculum for community colleges in the Criminal Justice Program. The goal is a core set of classes that are uniform in class titles and learning objectives among community colleges across the state. The Board of Regents tied funding to the project goals to incentivize the schools. The ultimate goal is to permit students completing Basic Training at KLETC or one of these community colleges to use these hours as a foundation for their Associates degree.

Director Pavey said his staff would be sponsoring the Kansas Sheriff's Association S.A.M.S. training to be held February 1-3, 2010 at the Ramada Inn Hotel in Topeka. The training will be on Resource Inventory Management for Rural Communities with risk and vulnerability assessment training for sheriffs. This is training for emergency situations.

The Legislative Research Public Safety Consolidation Group has been meeting. Director Pavey said he and John Green, Associate Director of KLETC have been attending these meetings as well as, Commissioners Maple and Blecha. Other State agencies involved include the office of the Adjutant General, the Department of Corrections, State Fire Marshal, Juvenile Justice Authority, Board of Emergency Medical Services, KBI, Kansas Highway Patrol, Department of Health and Environment, KDOT, KLETC and KU Fire Service. The purpose of the meetings is to review what efficiencies and/or consolidations, joint uses of facilities throughout the state can better serve the citizens of Kansas. Just had the third meeting and there has been quite a lot of discussion of resources.

Commissioner Maple said Director Pavey was on target explaining the group. The state public safety agencies are in discussion with some legislators. The meetings have been beneficial and reveal cooperation and coordination that is happening between agencies. There will be difficult choices made by legislators concerning funding public safety. Because of the State's budget an effort is being made to look at agency efficiencies, possible co-location of agencies, joint resource utilization, and resource sharing.

Director Pavey continued with an update on 2009 Senate Bill 19 which allows County Attorneys and District Attorneys to carry concealed weapons with proper training. The first firearms class was held by KLETC last fall and there were four attendees. A class was scheduled for Dec 2009 and there were no enrollments. The next class is to be held April 2010 and to date there is only 1 person enrolled. Staff is considering offering the class on an annual basis because of such low demand.

Director Pavey reported on his trip to Armenia, Fall 2009. He and Commissioner Breshears were part of the group that attended through the State Partnership Program. Armenian police officers and officials may be hosted here in Kansas within the next 6-9 months. It is in discussion stages with the US Embassy at this time. Director Pavey said he had a great time and came home with a great appreciation for all we have here.

The final item of Director Pavey's report is about the Kansas County and District Attorneys Association (KCDAA) concern with the Governor's Task Force on Domestic Violence. The review process is underway, comments have been taken and Ann Swegle, president of KCDAA has appointed a committee which will meet in February. Commissioner Miller said Tom Stanton, Reno County DA has proposed changes that are to be presented at the Attorney General's Call. Members of the KCDAA have expressed concerns in the past about the language of the Domestic Violence statutes and whether offenders can be successfully prosecuted.

Commissioner Blecha made a motion to accept Director Pavey's report and Commissioner Barta seconded it. The motion passed unanimously. (Appendix page 1)g Official Motion 2010 M 007)

### Conference Hearing

Chairman Carmichael began by asking Mr. Van Winkle if he wished to delay the hearing for a short time while he reviewed documents just given to him. He declined the offer. Chairman Carmichael announced the time as 1:28 pm on January 28. He began the Conference Hearing under Kansas Administrative Procedures Act which is for the purpose of hearing a request by Brian Van Winkle for reinstatement of his law enforcement certification. The applicable administrative regulation is from KS-CPOST's predecessor organization The Law Enforcement Training Commission and it is codified at KAR 6-1-8. It provides that any person whose certification has been revoked, suspended or denied may be reinstated only upon written application and by the majority consent of the Commission.

Chairman Carmichael also informed the Commissioners that at the time action was taken in respect to Mr. Van Winkle's certification he was provided with correspondence from the Law Enforcement Training Commission which indicated he could be reinstated under two different circumstances: after a period of 5 years from the date of surrender of his certification he could be heard by the Hearing Committee which would have power to take action with respect to that application; he was also informed that after 3 years application for reinstatement could be made to the Investigating Committee.

In consultation with KS-CPOST counsel, Eric Williams and Mary Feighny of the Kansas Attorney General's Office it was the consensus of the Commission given the circumstances the hearing should proceed under the Administrative Regulations which would entitle Mr. Van Winkle a hearing before the full commission. If the Administrative Regulations are revised Chairman Carmichael wants the Commissioners to understand it would include assessing all current procedures for handling this kind of case.

Chairman Carmichael explained that a Conference Hearing under the Kansas Administrative Procedures Act is not the same thing as a full hearing. The Conference Hearing is a procedure whereby the Commission can determine a matter under the act without the necessity of the full panoply of hearing procedures such as examination by counsel, cross examination, multiple witnesses etc. The act does provide that a hearing begun under the conference procedure can, if circumstances warrant, be converted to a full blown hearing but the proceedings would likely recess and everyone would return at a later date for the full blown hearing.

Chairman Carmichael extended to Mr. Van Winkle the opportunity to request the full hearing which would mean cross examination etc. If he continues with the Conference Hearing he'd be allowed to address the Commission, offer documentary evidence, and be questioned by the Commissioners, and be given an opportunity to sum up his request. Chairman Carmichael asked Mr. Van Winkle if it was acceptable to proceed with a Conference Hearing rather than a Full Hearing. Mr. Van Winkle said this hearing would be fine as long as he had the opportunity to speak his piece.

Chairman Carmichael assured Mr. Van Winkle that he would receive as much time as he needed to speak his piece and an opportunity to sum up if he chose to do so. Chairman Carmichael asked if there were any Commission objections. Hearing none, he said the Conference Hearing would proceed. Chairman Carmichael clarified for Mr. Van Winkle that the hearing was not a criminal proceeding but he

did have the right to be represented by counsel and the hearing would be set for a later date to make those arrangements if he preferred. Mr. Van Winkle said he would like to proceed at this time.

Chairman Carmichael continued with other preliminary matters, however at this time Commissioner Ralston, in attendance by conference call said he could not hear Mr. Van Winkle speak. Chairman Carmichael asked Mr. Van Winkle to move his chair closer to the speaker phone and he obliged.

Chairman Carmichael covered two other business items before the Conference Hearing began. The first item had to do with the capacity of the Commission's general counsel, Eric Williams. He conferred with Mary Feighny of the Attorney General's Office concerning the necessity of a representative from the Attorney General's office to act as independent counsel to the Commission while someone else acts as a "prosecutor" in the proceeding. The consensus of Ms. Feighny and Mr. Williams was that in this circumstance Mr. Williams would not act on behalf of the agency as a prosecutor but will act as independent counsel to the Commission.

The second matter related to a possible appeal, under the Administrative Procedures Act the tape recording being made of this proceeding would be transcribed by Ms. Mork. It would serve as the official transcript for purposes of an appeal. Chairman Carmichael asked for any questions regarding the procedure or objections to the procedure from either Commissioners or Mr. Van Winkle.

Hearing none Chairman Carmichael explained the facts of this circumstance for the record. An order of revocation was entered by the Kansas Law Enforcement Training Commission on April 25, 2002 based upon Mr. Van Winkle's voluntary surrender of his law enforcement certification on April 24, 2002. At the time of his surrender there was a concern about a possible violation of the Kansas Law Enforcement Training Act. On or about June 17, 2001 Brian Van Winkle failed to meet the qualification requirements of a certified law enforcement officer related to moral character. In that he agreed, with another person, to commit the crime of official misconduct with the use of confidential information acquired in the course of and related to an officer's office or employment for the benefit or gain of another. That was the basis of the order of revocation following the surrender of Mr. Van Winkle's certification.

For purposes of the hearing Exhibit 1 was communication from Mr. Van Winkle dated September 22, 2009. Exhibit 2 was a summary of an interview with a witness, Marcy Green, conducted by Special Investigator John Gaunt on January 27, 2010. Exhibit 3 was part of the Commission's investigative file concerning this matter. Parts of it have been redacted by general counsel, removing identification of witnesses and whereabouts and other revealing information. The documents received by the Agency through email did not have this information redacted but the record will not contain that type of personal information.

Executive Director Culp offered Exhibits 1, 2 and 3 as a formal part of the record, no objections were made and the documents admitted become part of the record. Mr. Van Winkle confirmed he had received copies of these records prior to the hearing. He also stated he had no objection to making them a part of the evidence.

Chairman Carmichael explained Mr. Van Winkle would be given an opportunity to speak, the Commissioners would be able to ask questions and Mr. Van Winkle would have the chance to sum up his remarks. If Commissioners believe additional evidence is necessary to make a determination they need to make that known so the proceeding could be converted to a formal hearing. Upon conclusion of the

hearing the Commission will adjourn to Executive Session to deliberate this quasi judicial matter and make a determination of Mr. Van Winkle's request. It is possible no opinion would be forthcoming this day but a written order will be sent from the Commission in due course. No further questions or objections were voiced.

Mr. Van Winkle addressed the Commission saying he admitted to the original investigators that he asked a friend to run a tag number of his ex-wife in order to obtain her address. He noted that the testimony of his ex-wife says she believed he trespassed to obtain the tag number but he disputed that saying he remembered it. Mr. Van Winkle also said that he believed most of this (sic) was politically motivated because a sheriff's election was underway in Chautauqua County and he was running against the incumbent.

Mr. Van Winkle continued said the Sheriff used this incident as an opportunity to discredit him during the campaign and it was blown out of proportion. He feels the Commission that heard this originally is of the same opinion as no charges were filed against him. He said that whether he was guilty of any crime was a matter of interpretation. He continued saying if every officer who had a run a tag number for personal informational purposes had their certification revoked there wouldn't be too many officers left.

Mr. Van Winkle explained that the passage of time proved that he had not stalked the ex-wife. He contended that any reforming that he might have needed has happened as he has not been in any kind of legal problems in 10 years. He asked for the reinstatement of his certification. He said he was not planning to move back to Kansas or return to law enforcement but he wanted his name cleared. He didn't feel like he did anything criminal at the time and he still doesn't. Mr. Van Winkle ended his statement.

Chairman Carmichael asked Commission members if they had any questions for Mr. Van Winkle. He said that included Director Pavey, as an ex-officio member of the Commission. Commissioner Miller was recognized by Chairman Carmichael and proceeded to clarify with Mr. Van Winkle his admission that he asked someone to run the tag number of his ex-wife, Mr. Van Winkle concurred.

Commissioner Miller also verified with Mr. Van Winkle that he denied going onto his ex-wife's mother's property to obtain the tag number and Mr. Van Winkle agreed that he did not do that as he already knew the tag number. Commissioner Miller asked him was he aware there was an allegation that on 6-17-2000 he drove by the house. Mr. Van Winkle replied that Sedan was a very small town and if everybody had called the sheriff every time he drove by their house the phone would have rang off the wall. Mr. Van Winkle admitted that he might have driven by the property on the 17<sup>th</sup>. In response to Commissioner Miller's question was the tag inquiry made on the 18<sup>th</sup>, the following day, Mr. Van Winkle replied if they say so and that he would take Commissioner Miller's word for that.

Commissioner Miller said he did not want to confuse Mr. Van Winkle. He continued saying the allegation was that on the 17<sup>th</sup> of June Mr. Van Winkle got the tag number of his ex-wife's car while it was at her mother's house. Mr. Van Winkle said he got the tag number off of her car when it was parked at their house in Severy, KS. He continued saying he was aware of the allegation but he denied that.

Commissioner Miller continued questioning Mr. Van Winkle saying it was the day after the 17<sup>th</sup>, on the 18<sup>th</sup> when you asked your friend to run the tag number and why did you run the tag? Mr. Van Winkle replied he wanted his ex-wife's address so he could write to her. He continued saying the Attorney

General's Office might have thought his letter was pathetic but at the time he was not under any order to not contact her. He explained at the time he had strong feelings for her and wished to write her a letter. He said he didn't write her after talking with the KBI. He continued saying as far as getting her address that now he could get it off the internet.

Commissioner Miller reminded Mr. Van Winkle that when he got the address he knew it was confidential information and he knew he shouldn't have gotten it that way. Mr. Van Winkle replied he wasn't aware then and is still not aware of any statute to that effect. He said most departments have policies but if there is a statute saying this particular information is confidential how does law enforcement put it out on the radio. Commissioner Miller clarified with Mr. Van Winkle that he didn't think it was wrong to obtain her address by running her tag number and Mr. Van Winkle agreed.

Commissioner Miller continued saying there were allegations that Mr. Van Winkle left letters on his ex-wife's car, Mr. Van Winkle interjected that was while they were still married. Commissioner Miller clarified that the communication took place during their separation to which Mr. Van Winkle agreed and then he elaborated she wouldn't talk to him and he had to contact her some way.

Chairman Carmichael asked if any other Commissioners had questions for Mr. Van Winkle and Commissioner Blecha indicated he did. He began by saying Mr. Van Winkle mentioned he wasn't stalking his ex-wife a couple of times was that allegation ever made? Mr. Van Winkle responded saying when he was interviewed by a KBI agent, whose name he can't recall, the stalking allegations were in the record but Mr. Van Winkle denied it then and denies it today. He also said there was never any threat of violence, he had never hurt his ex-wife or threatened to hurt her.

Commissioner Blecha thanked Mr. Van Winkle for his answer and then asked him if any arrest warrants were ever issued for him. Mr. Van Winkle replied that there was a misdemeanor arrest warrant issued for him in Chautauqua County but he was never arrested and the warrant was dismissed. He continued referring to the letter from the Kansas Attorney General's Office to this Commission here saying the AG's office declined to file a petition against him and said a charge of official misconduct would not hold up in court.

Commissioner Blecha asked Mr. Van Winkle where he lived when the arrest warrants were issued for him. Mr. Van Winkle replied he was living in Sapulpa Oklahoma. Commissioner Blecha continued asking Mr. Van Winkle when he moved to Oklahoma, was it before or after the arrest warrants were issued and he replied he moved before then, he moved the day after the Sheriff's election was held and he knew he lost. Commissioner Blecha asked Mr. Van Winkle if he knew the arrest warrants were issued. Mr. Van Winkle said he found out about them later and he contacted an attorney in Coffeyville who worked with the County Attorney and got them dismissed.

Commissioner Miller asked Mr. Van Winkle when were the charges dismissed and after prompting by Commissioner Miller he said it was 2009. Mr. Van Winkle explained that he didn't feel that as long as Sheriff Green was in office in Chautauqua County he would get a fair trial. Commissioner Miller asked Mr. Van Winkle did he move to Oklahoma in August 2000 and stayed there until the charge was dismissed in 2009. Mr. Van Winkle explained he still lived there. Commissioner Miller asked Mr. Van Winkle when did he know the warrant had been issued and he replied late 2000. Commissioner Miller summarized his response saying in 2000 Mr. Van Winkle knew there was a warrant issued for him in Kansas.

Chairman Carmichael asked if anyone had other questions, hearing none he continued by explaining to Mr. Van Winkle that he was not placed under oath but if it was discovered that he had not been truthful it would be grounds for revocation. Mr. Van Winkle indicated that he had been telling the truth. Chairman Carmichael once again asked if there were any further questions from the Commission hearing none he asked Mr. Van Winkle if he had anything else to say to the Commission or any additional evidence to offer.

Mr. Van Winkle said he didn't know what else he could add. He did say he wished he had pursued a hearing at the time his certification was revoked but he was really fed up with politics back then. He moved to Oklahoma and said to hell with it all. He continued saying he was proud of serving various communities as a member of the police. His conscience was clear and he always tried to do the right thing. He said this had been a messy episode of his life that he was glad to have it behind him. He explained the chance of him ever wearing a badge again was very slim. He has been with his current employer 9 years and intends to stay there. But he might want to become a reserve officer with the local sheriff at some time. He continued saying that due to the time that has passed his certification, if it wasn't revoked, would be lapsed and he asked about the process to obtain recertification. Chairman Carmichael responded that there were procedures to obtain provisional certification but that it was not appropriate to go into it at this time. Mr. Van Winkle continued saying whether the Commission reinstated his law enforcement certification or not wouldn't really affect him. He wanted his record and his name cleared.

Chairman Carmichael thanked Mr. Van Winkle for his summary and asked the Commission if any further investigation or additional evidence was available to convert the proceedings to a formal hearing. No request was made by any Commissioner and no further evidence was offered to Chairman Carmichael. He closed the evidentiary record and requested an opinion of Counselor Williams as to who should be in attendance at the Executive Session for deliberation of the pending quasi-judicial matter. Director Pavey is a member ex-officio of the Commission and could attend. Whereas Executive Director Culp's input is always welcome but there was a question did he act as prosecutor for the agency, KS-CPOST. Counselor Williams opined that Director Pavey, Executive Director Culp and himself should all be in attendance as neither Executive Director Culp nor himself had acted in a prosecutorial role.

Chairman Carmichael asked for a motion to go into Executive Session for a period of 17 minutes or by chairs watch until 2:10 PM for the purpose of deliberating a quasi judicial matter. He indicated he would entertain a further motion to invite Director Pavey and Director Culp and general counsel Eric Williams to participate in the executive session.

Commissioner Stowers made a motion that the Commission adjourn to Executive Session for purpose of deliberating the quasi-judicial matter along with Director Pavey and Executive Director Culp and KS-CPOST general counsel. It was seconded by Commissioner Breshears. No discussion was offered. The motion passed unanimously. (See Appendix page 1)h Official Motion 2010 M 008) Guests were asked to leave the room and the tape recorder was turned off.

The meeting was reconvened by Chairman Carmichael at 2:14 PM. He explained that after 5 minutes in executive session during which no substantive matters were discussed related to Mr. Van Winkle rather the question was raised as to who should or should not be in attendance. By agreement and consensus

Director Pavey and Executive Director Culp left the room after 5 minutes. There was no discussion about the merits of the matter before the Commission.

Chairman Carmichael asked for a motion to resume executive session for the previously noted reasons for a period of 10 additional minutes, 2:25 PM. It was so moved by Commissioner Keller and seconded by Commissioner Maple. The motion passed unanimously. (See Appendix page 1)i Official Motion 2010 M 009)

Chairman Carmichael reconvened the meeting at 2:32 PM at which time Commissioner Miller made a motion that the Commission deny reinstatement of Mr. Van Winkle's law enforcement certification. Commissioner Breshears seconded the motion. Commissioner Blecha stated he would abstain from voting on this matter. No discussion was offered and a vote was taken. Ten Commissioners voted in support of the motion to deny reinstatement of law enforcement certification for Mr. Van Winkle. Commissioner Stowers voted against the motion. Commissioner Blecha abstained from voting. (See Appendix page 1)j Official Motion 2010 M 010)

Chairman Carmichael explained to Mr. Van Winkle that a formal order from the Commission would be sent within the next few days signed by him on behalf of the Commission. Mr. Van Winkle thanked the Commission for taking the time to hear his request. He said he would like to have insight into the thinking of the Commissioners. Chairman Carmichael explained the Commission's general counsel would prepare a written order and assuming it accurately reflects the results of the hearing Chairman Carmichael will sign it also. It will also contain information on a possible appeal by Mr. Van Winkle. Chairman Carmichael advised Mr. Van Winkle that the deadlines for any appeal are strictly observed, thanked him for attending and wished him well in future endeavors.

#### **Report on Legal Issues**

Chairman Carmichael called for a report on legal issues from Eric Williams, counsel for KS-CPOST and Darin Beck, Deputy Director of KLETC. Neither Mr. Williams nor Mr. Beck had anything to report at this time.

#### **Executive Director's Report**

Executive Director Culp began his report with the status of KS-CPOST and law enforcement in Kansas. The KS-CPOST organizational chart was shown on the overhead. Executive Director Culp explained there was still one vacancy, a full time investigator position which he is in the process of filling as budget approval has been given.

Executive Director Culp explained that he and Eric Williams attended an agency overview meeting with the Transportation Public Safety Committee. While there he stressed the state statute which founded the KS-CPOST agency, the mission, and the funding source which is generated by Municipal Court Fees. According to the Kansas Full Time Peace Officers 2000-2009 chart as of 2009 there are 7,563 certified law enforcement officers in Kansas. This number has increased every year since 2000. Because of the financial difficulties being encountered by the State of Kansas and local municipalities and counties this number may be reduced next year.

Reviewing the number and type of law enforcement agencies Executive Director Culp's next chart shows there are 436 agencies in the state of Kansas: 51 per cent have 5 or fewer officers; 21 per cent have between 6 and 10 officers; 7 per cent of the agencies have between 11 and 15 officers; 8 per cent are in



the range of 16 to 25 officers; agencies with 26 to 50 employees comprise 7 per cent; three per cent have between 51 and 99 employees while only three per cent of the Kansas agencies have more than 100 employees. There are 267 municipal agencies, 104 county organizations, three departments of public safety and 62 other agencies. Between 2000 and 2009 KS-CPOST certified 5,560 law enforcement officers. For the year 2009 580 officers were certified.

Executive Director Culp began the 2010 mid-year financial report with a review of the revenue received between July 2009 and December 2009. KS-CPOST received \$359,254 total revenue in the first half of Fiscal Year 2010 which is an average of \$59,875 per month. The projected agency budget for 2011 is \$650,000 which requires a monthly average of \$54,166. Revenues at current levels will sustain the 2011 budget and generate a surplus. Reviewing KS-CPOST revenue from 2007 through FY 2010 midpoint show steady increases every year.

Expenditures for KS-CPOST through December 31, 2009 are as follows: Salary and Benefits \$184,974.31; Contractual Services \$43,204.95; Commodities \$1,921.29; and Capital Outlay \$41.75 combined with encumbered FY '09 expenditures of \$9,516.60 show total expenditures of \$239,658.90. Executive Director Culp explained agency expenditures and revenues have increased, this is happening as staff numbers have increased while the agency is moving forward. Executive Director Culp said a firm foundation has been built slowly and steadily. Every expenditure made is listed in the notebook.

Executive Director Culp explained his policy is to have a comprehensive audit done by the State of Kansas for the agency every three years. One was scheduled for November 2009 but right before the appointment it was cancelled due to the pending implementation of the Smart Project. Executive Director Culp explained that all revenues for the agency go directly to the proper department of the State of Kansas in Topeka; all expenditures are approved by him and are then processed and paid through the State of Kansas purchasing department. No cash is ever received in this agency.

The 2010 Budget of \$650,000 for KS-CPOST has been presented and approved. It has passed the Budget and passed the scrutiny of the Governor but it still has to go before the legislature and that result is unknown. By this time last year our budget had been reduced by 13%. The Financial Report was concluded and Chairman Carmichael asked for a motion to accept the report. Motion was made by Commissioner Stowers and seconded by Commissioner Blecha.

Chairman Carmichael asked if there were any questions or discussion concerning the report. Commissioner Miller questioned the dates for the expenditures and it was explained they are not accurate. Ms. Mork sorted the data by sub object code the dates were apparently not coded properly. These are the expenditures through December 31, 2010 and the report will be corrected. (See Appendix page 5)a ) The motion carried unanimously. (See Appendix page 1)k Official Motion 2010 M 011)

Executive Director Culp explained the issue of positive drug tests for certified law enforcement officers was brought up at the last Investigative Meeting. In the past the Commission was not involved in this area. But increasingly agency heads are sending in what they believe is enough information to result in decertification. In a case where a person has ingested cocaine, it could be a felony generally the prosecution in the jurisdiction will not prosecute the person but they are summarily relieved of employment.

When the committee members, Commissioners Stowards, Ralston and Jarboe, met the consensus was to bring this matter before the full Commission for further discussion and possible change of policy. Executive Director Culp said this matter might be too large for resolution today. But it could be discussed at a later meeting in more depth.

Commissioner Stowards made the point that when these matters are referred to the committee lots of information is unknown such as the type of investigation that was done by the agency, the type of drug test used and the standards of the testing process. Without this information decertification would be made on the basis of assumptions and that is unacceptable. He felt Commission discussion and input was needed to determine the standards to be used by the Investigative Committee to take action on the failed drug test cases.

Executive Director Culp said KS-CPOST Counsel Eric Williams had done some research in this area checking with other states to see how this matter was dealt with. Mr. Williams said he had checked with some other states and apologized for not having his notes with him. He said he talked with other legal counsels with POST organizations. Some take action on the basis of the drug test with the protections Commissioner Stowards talked about being worked out in the hearing process. It would be necessary to show the person intentionally did the things revealed by the drug test.

Chairman Carmichael asked Mr. Williams to be more specific about the various POST organizations he talked to. Mr. Williams said the information varied greatly as some POSTs don't do decertification's at all, there are some that take action and some that don't. Of the ones that have decertification authority, the majority do take some action ranging from reprimand to decertification for ingestion of narcotics all the way down to marijuana. Mr. Williams offered to prepare a report of his findings for the next meeting if desired.

Commissioner Breshears recommended this topic be placed on the next KS-CPOST meeting agenda so the issue can be addressed. He wants the proper amount of time set aside for thorough debate and discussion. He is Chief of Police in Kansas City Kansas and the department has a random drug testing policy. There is also a bargaining unit which required negotiation to establish the policy. Smaller agencies won't have that experience. He sees the need for considering a broad spectrum of what would be a positive test.

In response to Chairman Carmichael's question about the best way to proceed Commissioner Breshears recommended Mr. Williams and Executive Director Culp check with various departments, doing research with large agencies as well as small ones to determine what constitutes a positive drug result and what are the consequences in that department. Also find out what kind of review was done, was the officer allowed due process to be able to appeal the decision, and was the officer able to explain the positive drug test. Chairman Carmichael said this sounded like an excellent plan and input from all Commission members would be invaluable also. This topic will be on the next meeting agenda.

Executive Director Culp said the KS-CPOST budget hearing was scheduled for February 8<sup>th</sup> in Topeka, Kansas and the Joint Law Enforcement Legislative Reception was also to be held around the same time. Executive Director Culp mentioned the names of the legislators serving on the Transportation Public Safety Committee and asked all members of the Commission to speak with them if they happened to run into them while in Topeka. He said they should tell the elected officials they are commissioners with KS-CPOST and our funds are derived from municipalities entirely with no tax dollars at all. There is a plan

to sweep \$200,000 from our account which combined with the \$500,000 they swept from our account last year totals \$700,000.

Chairman Carmichael asked for a motion to accept Executive Director Culp's report. So moved by Commissioner Blecha and seconded by Commissioner Maple. Motion passed unanimously. (See Appendix page 1)| Official Motion 2010 M 012)

### Old Business

Executive Director Culp said good progress was being made working through the back log of files. He commended the hard work by both investigators and Counsel Eric Williams which made the progress possible. He said that a final decision would be made soon about resolution of the cases back to 2003. At that point we would be in a position to work on revision of the Kansas Administrative Regulations and the Continuing Educational requirements that are administrative in nature. Issues have cropped up that need to be addressed. Executive Director Culp suggested that KLETC and KS-CPOST team up because both organizations are involved in these matters. He would like to include some Commissioners in the process as well as professional associations such as Kansas Peace Officers Association (KPOA).

Executive Director Culp continued saying another important project which could possibly be concurrent with the aforementioned ones would be the development of an integrated information computer system that encompasses law enforcement, KLETC, KS-CPOST, and all 8,000 Kansas law enforcement officers so they could access their files which by statute they are responsible for themselves as well as their agencies. Funding has been available, unsure of how long the state's financial crunch will last but this project is desperately needed.

Chairman Carmichael said he thought it was well within the discretion and competence of Executive Director Culp to form working groups as he deemed necessary regarding the revision of the training guidelines and the KAR revisions, which would also include assistance from legal counsel. Chairman Carmichael reaffirmed the top priority of KS-CPOST would remain the enforcement and certification issues of law enforcement officers as they arise.

Regarding the budgetary reserves for the computer project, Chairman Carmichael said there were three Commission members with much expertise negotiating the State of Kansas budgetary process. He asked them for recommendations or suggestions on how to prevent further sweeps from the KS-CPOST budget.

Commissioner Blecha, director of the Kansas Bureau of Investigation (KBI) said there were two fee funds for his agency and money has been swept from both funds in the past couple of years. He continued saying that is always an option for the State of Kansas. He said that efforts were made by the agency to not let the funds build up too much because of this tendency. In the past when the funds got built up it was used to buy new or replacement equipment but this is not a possibility now as both funds are quite low. He said there is the constant thought that more money could be swept and he didn't know how an agency could protect their interests.

Commissioner Maple, Superintendent of the Kansas Highway Patrol (KHP), agreed with Commissioner Blecha and said wherever they had reserves the State of Kansas swept it out of the account. The KHP has lost funds which have resulted in no contingency fees, no training center funds along with other funds they are all gone. They were taken.

He continued saying while he lacked detailed information on the proposed computer project in general the best approach would stress the benefit to law enforcement across the state. Commissioner Maple recommended strength in numbers, shown best through a coalition of law enforcement agencies and associations backing the KS-CPOST computer project. At budget hearings it would be very important to show the importance and benefit of the project to law enforcement statewide and strengthen the appeal with coalition partners present. He explained the tough times for law enforcement in general saying KBI lost \$3 million since 2009 and KHP has lost \$7.5 million since 2009. No agency is exempt from cost cutting.

Chairman Carmichael said the best thing would have been to have spent the reserve funds already and they couldn't have been taken. Now he's uncertain if there is any way to spend them at this point. He understands it would require a good purpose, authorization and by the time all those steps occur the money may be swept. If anyone has a good idea about what can be done responsibly at this time speak up. It is a difficult time for funding.

Executive Director Culp explained he was giving out candles for all Commission members that he had made especially for them with the KS-CPOST emblem on the front. They are a personal gift from him.

Chairman Carmichael called for additional old business from the staff but heard none. He reviewed agenda items in the Old Business category, including Governor's request for support of domestic violence –disposed and racial profiling – disposed. The agenda continued with executive session and new business. Chairman Carmichael suggested if there was a need for executive session it would be taken up at the end thereby releasing all parties not involved in executive session to go on their way.

#### New Business

Chairman Carmichael called for new business. He then continued saying his only area of new business pertained to the compensation, performance etc relative to Executive Director Culp. He requested help from other Commission members to make sure his duties were being fulfilled in that regard.

Director Pavey said he had something to discuss. He explained that as Director of Police Training and pursuant to statute he could develop rules and regulations as the Code of Student Conduct for all attendees at the training center. There is also a Code of Student Conduct for the Basic Training students. (See Appendix page 6)a ) Director Pavey explained he consulted with the Commission before it was put in place.

Director Pavey continued saying there was an informal guideline for folks attending KLETC for continuing education events or guests staying in the dorms but there was not a formal document. Recently there was an incident which was discovered after the fact. There were some Firearms Instructors attending a class at KLETC who, during the evening, were out in the parking lot drinking beer in a police vehicle. Their agency administrators were notified as the behavior was not appreciated.

In response, rules have been developed that apply to Continuing Education students or guests that are staying in the dorms. They are "The Continuing Education Student and Dormitory Guest Information". They covered safety, weapon safety, alcohol prohibition on the grounds of KLETC; both possession and consumption of alcohol on the KLETC property is prohibited. Use of tobacco was also reviewed as there are issues with chewing tobacco. The last rule addresses professional conduct, kind of a catch all, and it

is tied to the Law Enforcement Code of Ethics that was handed out and will be incorporated into the document. (See Appendix page 6)b )

Director Pavey explained there are five rules to be implemented. The rest is information about decorum for the continuing education student. The document will be included in their enrollment packets and posted in the rooms. A resolution has been prepared for the signature of Chairman Carmichael in anticipation of adoption of these rules. If that comes to pass Director of Police Training Pavey explained he would implement them immediately. He asked for a motion.

Commissioner Stowers asked for clarification of rule number three which includes 'basic training' Director Pavey explained it is included to remind the continuing education student that students attending basic training are not allowed to consume alcohol while attending the academy. This includes alcoholic liquor and cereal malt beverage both 3.2% and 6%. Chairman Carmichael asked for a motion to adopt the resolution as requested by Director Pavey. (See Appendix page 6)c ) So moved by Commissioner Hanson and seconded by Commissioner Bush. There was no discussion and the resolution carried unanimously. (See Appendix page 1)m Official Motion 2010 R 013)

Chairman Carmichael asked for additional new business hearing none he asked Executive Director Culp when the next Commission meeting would be held. Executive Director Culp explained the meeting should happen after July, the end of the fiscal and training year. He suggested July 20, 21 or 22<sup>nd</sup>. The meeting was tentatively set for July 22<sup>nd</sup> at KLETC. Chairman Carmichael asked everyone to check their calendar and let Executive Director Culp know within the next week if the date would be a problem. Executive Director Culp said the meeting time had not been set yet but the meeting would be held at KLETC. Director Pavey extended hospitality and overnight accommodations before the meeting to everyone. Chairman Carmichael suggested a 10:00 am start time for the July 22<sup>nd</sup> KS-CPOST Commission meeting.

Chairman Carmichael asked for public comment. Director Pavey provided a health update on former Investigator Lanny Gosland who had recent heart by-pass surgery and is doing well. He also said that on the evening of the 22<sup>nd</sup> practical exercises for the Kansas Police Administrators Seminar would be held and role players were needed, anyone who wanted to assist should see Director Pavey after the meeting adjourned.

Chairman Carmichael said he would entertain a motion that the meeting adjourn into executive session for a period of 10 minutes so as to discuss a personnel matter. Executive Director Culp is invited to join the session. The meeting would reconvene at 3:50 pm. Commissioner Ralston so moved and Commissioner Stowers seconded the motion. Chairman Carmichael asked if there was any discussion hearing none he asked for a vote and the motion carried unanimously. (See Appendix page 1)n Official Motion 2010 M 014)

Chairman Carmichael reconvened the meeting at 3:55 pm. He asked for a motion from the Commissioners. Commissioner Breshears said that Commissioners Maple and Blecha are experienced in the process of making cost of living raises (COLA's) for directors that operate at the governor's discretion. He made a motion that their expertise be utilized to follow through with making such a recommendation for Executive Director Culp. And at the very least for us to document and forward to the Governor's Office and for Executive Director Culp's file the outstanding job he's been doing since his appointment. The motion was seconded by Commissioner Barta. Chairman Carmichael asked for any

discussion, being none he called for the vote. The motion carried unanimously. (See Appendix page 1) Official Motion 2010 M 015)

Chairman Carmichael asked if there was any further business to bring before the group. Commissioner Ralston said he wanted to thank Executive Director Culp and his staff for the satellite telephone connection to the meeting. Commissioner's Hanson, Bush and Jarboe echoed Commissioner Ralston's sentiments.

Chairman Carmichael asked for a motion to adjourn the meeting, Commissioner Blecha so moved and Commissioner Maple seconded it and the motion passed unanimously. (See Appendix page 1) Official Motion 2010 M 016)



**K A N S A S**

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING  
(KS-CPOST)

**KS-CPOST Open Meeting**

January 28, 2010  
10:35 am

Official Motion 2010 M 001

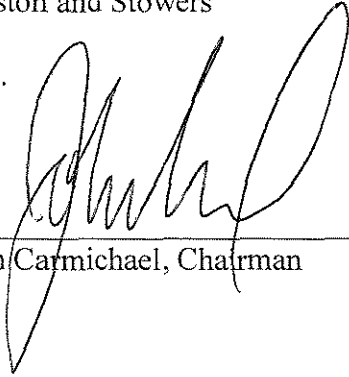
Motion: To approve the minutes of the August 28, 2009 meeting as submitted.

Moved by: Commissioner Blecha

Seconded by: Commissioner Barta

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Action: Motion passed by unanimous vote.

  
\_\_\_\_\_  
John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 002

Motion: To accept the voluntary surrender of law enforcement certification by  
Bruce Voigt

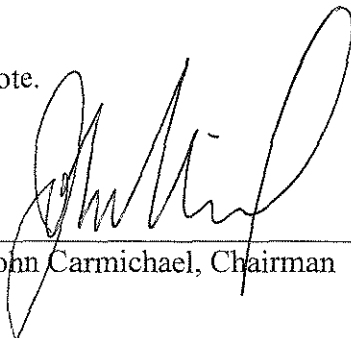
Moved by: Commissioner Breshears

Seconded by: Commissioner Hanson

Members voting: Commissioners Carmichael, Barta, Breshears, Bush, Hanson, Jarboe,  
Keller, Maple, Miller, Ralston and Stowers

Member abstaining: Commissioner Blecha

Action: Motion passed by unanimous vote.



John Carmichael, Chairman





# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS•CPOST)

### KS•CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 003

Motion: To accept the voluntary surrender of law enforcement certification by David L Waddell

Moved by: Commissioner Maple

Seconded by: Commissioner Stowers

Members voting: Commissioners Carmichael, Barta, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Member abstaining: Commissioner Blecha

Action: Motion passed by unanimous vote.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010

10:35 am

Official Motion 2010 M 004

Motion: To accept the voluntary surrender of Law Enforcement Certification by Jody Livengood

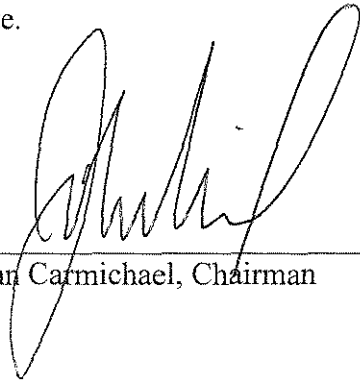
Moved by: Commissioner Miller

Seconded by: Commissioner Keller

Members voting: Commissioners Carmichael, Barta, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Member abstaining: Commissioner Blecha

Action: Motion passed by unanimous vote.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 005

Motion: To support KSA 74-5605 & KSA 74-5616 as currently written and to oppose any amendments or changes as introduced in Senate Bill 352. Furthermore Executive Director Culp and Counsel Williams are authorized to testify in opposition to amendments or changes of said bill.

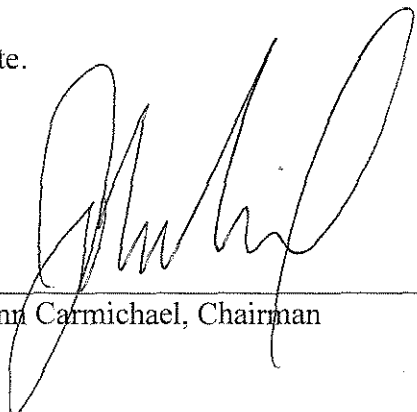
Moved by: Commissioner Breshears

Seconded by: Commissioner Blecha

Members voting: Commissioners Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Members abstaining: Commissioners Carmichael and Barta

Action: Motion passed by unanimous vote.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 006

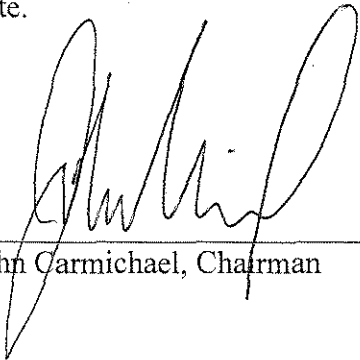
Motion: To support the Governor's Task Force on Racial Profiling moratorium on racial profiling legislation during the 2010 legislative session

Moved by: Commissioner Breshears

Seconded by: Commissioner Hanson

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Action: Motion passed by unanimous vote.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010

10:35 am

Official Motion 2010 M 007

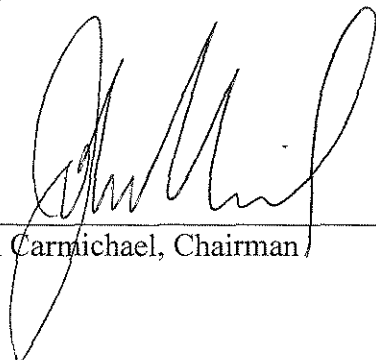
Motion: To accept Director Ed Pavey's report.

Moved by: Commissioner Blecha

Seconded by: Commissioner Barta

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Action: Motion passed by unanimous vote.



John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 008

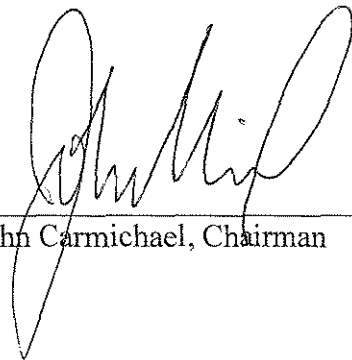
Motion: To adjourn to Executive Session for the purpose of deliberating the quasi-judicial matter along with Director Pavey, Executive Director Culp and Counsel Eric Williams

Moved by: Commissioner Stowers

Seconded by: Commissioner Breshears

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Action: Motion passed by unanimous vote.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010

10:35 am

Official Motion 2010 M 009

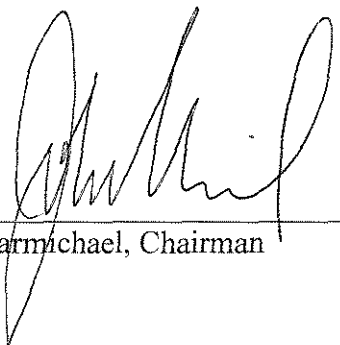
Motion: To resume Executive Session for the previously noted reasons for a period of 10 additional minutes or until 2:25 pm.

Moved by: Commissioner Keller

Seconded by: Commissioner Maple

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Ralston and Stowers

Action: Motion passed by unanimous vote.



John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 010

Motion: To deny reinstatement of Mr. Van Winkle's law enforcement certification.

Moved by: Commissioner Miller

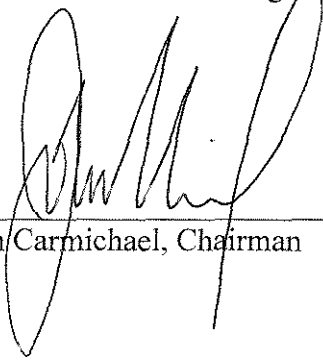
Seconded by: Commissioner Breshears

Members voting for: Commissioners Carmichael, Barta, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, and Ralston

Members voting against: Commissioner Stowers

Members abstaining: Commissioner Blecha

Action: Motion passed by a vote of ten in favor to one against.



John Carmichael, Chairman





# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 011

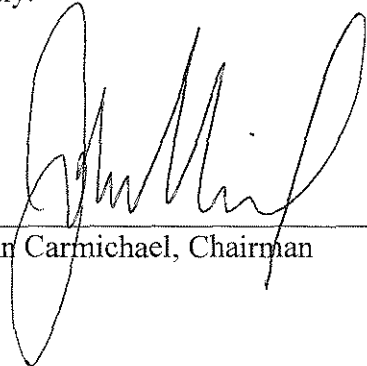
Motion: To accept Executive Director Culp's financial report.

Moved by: Commissioner Blecha

Seconded by: Commissioner Maple

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: Motion passed unanimously.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 012

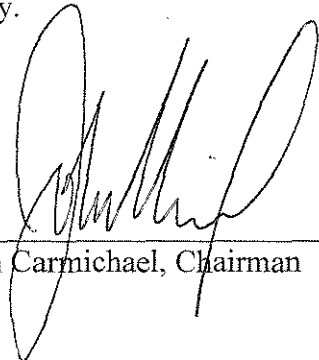
Motion: To accept Executive Director Culp's report.

Moved by: Commissioner Blecha

Seconded by: Commissioner Maple

Members voting: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: Motion passed unanimously.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010

10:35 am

Official Motion 2010 M 013

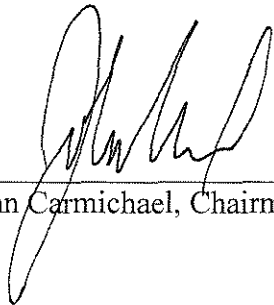
Motion: To adjourn the meeting into Executive Session for a period of 10 minutes to discuss a personnel matter. Executive Director Culp is invited to join the session.

Moved by: Commissioner Ralston

Seconded by: Commissioner Stowers

Members voting for: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: The motion passed unanimously.



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John Carmichael, Chairman



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS•CPOST)

### KS•CPOST Open Meeting

January 28, 2010  
10:35 am

Official Motion 2010 M 014

Motion: To utilize the expertise of Commissioners Maple and Blecha to recommend a cost of living raise (COLA) for Executive Director Steve Culp by forwarding documentation of his outstanding job to the Governor's Office for placement in his file.

Moved by: Commissioner Breshears

Seconded by: Commissioner Barta

Members voting for: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: The Motion passed unanimously.



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John Carmichael



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010

10:35 am

Official Motion 2010 M 015

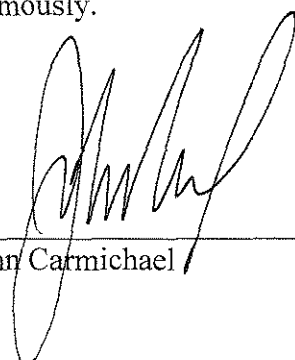
Motion: To adjourn the meeting

Moved by: Commissioner Blecha

Seconded by: Commissioner Maple

Members voting for: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: The Motion passed unanimously.



John Carmichael



# K A N S A S

STEVEN R. CULP  
Executive Director

MARK PARKINSON  
Governor

## COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

### KS-CPOST Open Meeting

January 28, 2010  
10:35 am

Official Resolution 2010 R 001

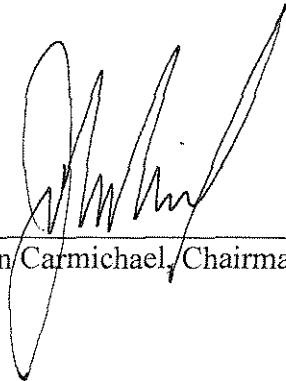
Motion: To support the adoption and implementation of the January 2010 edition of the Continuing Education Student Code of Conduct pursuant to KSA 74-5603(c) as developed by Director of Police Training Pavey

Moved by: Commissioner Hanson

Seconded by: Commissioner Bush

Members voting for: Commissioners Carmichael, Barta, Blecha, Breshears, Bush, Hanson, Jarboe, Keller, Maple, Miller, Stowers and Ralston

Action: Resolution passed unanimously



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John Carmichael, Chairman