

Kansas Commission on Peace Officers' Standards and Training

(KS•CPOST)

**Commission Meeting Minutes
KLETC Conference Room - 11009 S Hornet
Wichita KS
July 22, 2010**

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

Commission Chairman Carmichael called the meeting to order July 22, 2010 at 10:09 am. The flag salute was deferred until the next meeting as no flag was available. The chairman opened the meeting with a moment of silence in tribute to Wildlife and Parks Officer Luke Nihart who lost his life in the line of duty on June 26, 2010.

Roll call revealed the absence of Commissioner Barta. KLETC and KS-CPOST staff in attendance introduced themselves. All attendees are listed at the beginning of the minutes.

Chief Breshears recently retired from the Kansas City Kansas Police Department. Executive Director Culp paid tribute to Commissioner Breshears presenting him with a plaque and thanking him for his many years of service with the Kansas City Kansas Police Department, the Kansas Commission on Peace Officers' Standards and Training and its predecessor the Kansas Law Enforcement Training Commission. A motion was made by Commissioner Blecha and seconded by Commissioner Hanson to display Commissioner Breshears' honorary plaque at KS-CPOST. The motion passed unanimously. Chairman Carmichael also congratulated Commissioner Breshears.

Chairman Carmichael announced the next agenda item was approval of the January 22, 2010 minutes. Because they are 26 pages long and he has not had the opportunity to review them he suggested deferring the minutes until after lunch unless someone objects. There were no objections.

Commission Chairman Report

Chairman Carmichael explained he had no formal report to present. However, he said the following topics needed discussion:

- Commission priorities were established and ranked at last meeting. Executive Director Culp will report later today that the backlog of uninvestigated complaints has been eliminated; some certified law enforcement officers, both active and inactive, were discovered to have felony convictions and de-certified.
- Proposed computerized data base for the agency. Executive Director Culp has been working with KLETC Director Ed Pavey and his staff to separate KS-CPOST records from theirs. A progress report will be given later in the meeting by Director Culp.
- Revision of continuing education requirements for certified law enforcement officers has been discussed; current policy needs to be updated. Uncertain on what progress has been made.
- Administrative Regulations are in need of review and updating. Discussions are ongoing regarding separating KS-CPOST's regulations from the Training Center's regulations and updated to reflect KS-CPOST is a separate entity.
- Pending litigation in Shawnee County that was directed towards the former KS-CPOST Chairman Jackie Williams, KLETC staff and other various organizations alleged a conspiracy between CPOST and the training center to deny someone an opportunity. Recently a District Court Judge in Johnson County heard a motion to dismiss; only the Chancellor of the University of Kansas was dismissed. The Plaintiffs lawyer elected to dismiss the case without prejudice, it could be refilled within 6 months but it is unlikely and that this is the end of the law suit.
- Physical requirements for admission to KLETC along with the Commission's ability to design physical requirements that relate to service as a law enforcement officer in Kansas. This item is contained within the statute and it is within our purview to say an applicant must be within certain physical parameters to be an officer in Kansas. There are varied opinions as to whether it's appropriate for the Commission to impose these types of requirements but more discussion needs to occur and it will be facilitated by Director of Police Training Ed Pavey and Executive Director Culp later in the meeting.
- The agenda item of positive random drug test results of law enforcement officers will be discussed later today. Action is not required but hopefully Investigative Committee members can educate the Commission about past practices and recommend formal action if needed.
- Another difficult matter for Commission consideration concerns the eligibility of a law enforcement officer applicant with a juvenile charge for a felony crime who either was convicted and adjudicated or received diversion. Currently the Commission is following the opinion of Attorney General Carla Stovall who viewed those who were convicted of a felony as a juvenile and subsequently adjudicated to be within allowable guidelines to become a law enforcement officer. However, the charged juveniles who accepted and completed diversion thereby avoiding a felony conviction were considered ineligible.

Attorney General Steve Six's has issued an opinion directly opposite to former AG Stovall's. This presents options for the Commission. The current Commission guidelines can continue following AG Stovall's opinion as AG opinions are not binding. However, this would find the agency in opposition

to the current Attorney General's opinion which could be a difficult situation if KS-CPOST was sued for denying an applicant admission because the Attorney General would be counsel for KS-CPOST. The Commission can elect to adopt AG Six's opinion. Discussion is needed today on this topic as Executive Director Culp will need guidance from the Commission when applicants request a decision on provisional certification.

Commission Chairman Carmichael closed his remarks saying this was a quick summary of the agenda items before the Commission today. He called for the report from the Investigative Committee.

Investigative Committee Report

Commissioner Jarboe began the report saying the committee met by conference call at 10:00 AM on Monday July 19, 2010. Commissioners Ralston, Stowers, and Maple, serving as an alternate, met along with KS-CPOST staff Executive Director Culp, Commission Counsel Williams, and investigators John Gaunt and Joe Herridge. The committee reviewed 13 new cases and other cases that needed summary orders.

Executive Director Culp began his report by explaining that specific details on cases were unavailable as they are situations that could end up in court. Right now there are 10 new open investigations. KS-CPOST Investigators Gaunt and Herridge have done an excellent job reviewing and clearing out old pending issues resulting in identifying eleven more cases that will require further action. There have been a great number of Summary Orders issued this year. The most recent ones are listed in your books. To summarize there are ten new cases requiring investigations and eleven older cases that require review and action by Executive Director Culp to inactivate the case. There are also a number of cases that data is being collected upon and some may become open cases at a later time.

Chairman Carmichael determined that no formal action was needed by the commission. Commissioner Ralston praised the KS-CPOST investigators along with Commission Counsel and Executive Director Culp saying they did an excellent job of investigating and presenting the cases to the committee. He expressed his appreciation for their work as did Chairman Carmichael.

Hearing Committee Report

Commissioner Hansen expressed thanks to the committee members and KS-CPOST staff involved in pulling together information for a hearing that was to be held next week (the last week of July) but has been postponed as the attorney requested a continuance. She asked Executive Director Culp to provide additional relevant information.

Executive Director Culp explained an incredible amount of information was collected in the case. Most of the data is proof of wrong doing but no further details can be shared at this time. When the hearing is conducted it may take as long as two days. He concluded his presentation saying it will be the most extensive case brought forth by KS-CPOST to date.

Municipal Reimbursement Committee Report

Commissioner Miller began his presentation saying the committee met by telephone conference to review the Municipal Reimbursement Report including the expenditures and the cities that have requested reimbursement and approved the same. Executive Director Culp explained the report was inadvertently left out of the book. The report and payments are terribly late this year. An incorrect calculation was a contributing factor; initially the funding was divided up between too many

municipalities. Also the funds remain with KLETC although steps are being taken to bring that funding into the control of KS-CPOST.

Director Pavey explained the first two years that KS-CPOST existed, 2006-2008, the agency remained co-located with KLETC and it seemed easier to leave the funds with KLETC, which is a Board of Regents organization. Now that both agencies are physically separated the money should be moved to the Department of Administration which is over State of Kansas agencies.

However, the Department of Administration refused to take the money for KS-CPOST saying legislative authority is required for the transfer. After discussion with the Reviser's Office a statute with the correct language will be proposed in January which will facilitate the transfer of funds and result in KS-CPOST authorization of funds and faster payments to the municipalities. Director Pavey counseled Executive Director Culp to be sure and include these funds in the KS-CPOST budget and to obtain spending authority for the funds.

Director of Police Training Report

Director of Police Training Ed Pavey announced KLETC's newest staff member is Jason Deal. Formerly a Wildlife and Parks Police Officer he will begin his employment at the end of July 2010. He will teach Community Policing, Cultural Awareness, Report Writing, Field Notes, and Crisis Management. Range Master Boyce Moses retired after 25 years of KLETC service and Mike Lewis has taken his place as Range Master. Director Pavey provided a brief update on the Capital Improvement project for the KLETC campus: the dormitory was completed in August 2009 however problems continue with some of the heating and cooling boiler systems but all parties are working toward resolution; drainage issues in parking lot will result in a rework of the asphalt surface; issues on the driving course skid pad as there isn't enough surface water for a variety of reasons but all parties are working toward resolution. Overall Director Pavey said he was very pleased with the project and the improvements are very worthwhile.

KLETC funding for the past year was down 3% or \$169,000 below original projections but in view of the difficult financial times for the State of Kansas, Director Pavey said KLETC's revenue could have been a lot worse. The Municipal Court revenue is up while on the District revenue is down.

Reviewing KLETC statistics for FY 10 reflects five basic classes were held with 232 officers attending; two part time academies trained 36 officers; two reciprocity classes held for 28 officers; and 16 challenge exams were administered. The satellite academies graduated 54 officers, a smaller number than in previous years. Director Pavey asked Commissioner Maple, Colonel of the Kansas Highway Patrol if they had any graduations coming up. He reported twenty officers would be graduating on August 19th from the KHP Academy and all commissioners are invited to attend. Governor Parkinson will be the commencement speaker and a Principal Deputy US Attorney General from Washington DC will be a special guest as the class was grant funded. There are no other KHP academies scheduled at this time.

Director Pavey continued his report with the news that KLETC's 210th Basic class scheduled to begin September 7, 2010 has been cancelled due to low enrollments. The class can accommodate 60 officers. Only 14 officers were enrolled, however they were rescheduled for another class and no one was denied the opportunity to receive training.

At the request of Director Pavey, Commissioner Maple reported on the first organizational meeting of the Kansas Law Enforcement Working Group recently held at KLETC. It is a subcommittee of The

Commission on Emergency Planning and Response. The Committee is charged with reviewing the law enforcement training credentialing standards and protocols for emergency responders. Representatives from many agencies attended. Federal standards are anticipated. Monthly meetings are occurring at this time and will continue into the future. Director Pavey, KLETC and KS-CPOST Commission Counsel Eric Williams represented their respective agencies and sixteen other attendees were also in attendance. Current focus is on bomb squads and explosive teams; aviation, law enforcement observation aircraft; mobile field force crowd control teams; public safety dive teams; SWAT Tactical teams. The Commission on Emergency Planning and Response will begin the credentialing process with these areas. Standards and protocols are being developed in order that agencies and staff responding to Greensburg type events or mass casualty terrorist attacks will be highly trained with proper equipment and access into disaster sites will be limited to teams with credentials. In addition to the training a centralized registry of Kansas credentialed law enforcement agency departments will be implemented. Appropriate mass incident equipment resources will be catalogued so that credentialed departments and equipment will be dispatched to any mass casualty incident anywhere in Kansas rapidly.

Director Pavey said the chair of the Commission on Emergency Planning and Response is Eric Pittman, Captain with the KHP. Vernon Chin, Sheriff of Pratt County was elected Vice-Chair. Commissioner Maple explained the power point and minutes from the last meeting have been completed and could be emailed to the Commissioners if interested. He suggested it would be good for everyone to become familiar with this issue. Commissioner Maple explained every department was represented on the Regional Homeland Security Councils. Involvement at the community level is very important because the funding for homeland security is funneled to them and participation makes a difference. Chairman Carmichael suggested that Commissioner Maple keep the Commission informed of any developments.

Director Pavey continued, asking Mark Damitio to explain the State-wide Training Consortium Update. Mr. Damitio explained the concept for the project came from the Kansas Peace Officers' Association and the joint Training Committee when it was noted a considerable amount of training was occurring state wide and the training classes weren't always well publicized. The State-Wide Training Consortium also aims to eliminate duplicate classes, save money, identify expert teachers in various subject areas and monitor classes offered by vendors.

Director Pavey handed out copies of the May 18, 2010 Consortium Update which refers to the State-wide Training Calendar and provides instruction on how individuals or agencies can be added to the Law Enforcement Training Consortium listserv. He also advised everyone of an important class being offered August 2, 2010 at KLETC, "Bricks and Mortar Laying the Proper Foundation for 21st Century Police Resistance Control." Steve Ijames will be leading the day long training. Lunch is included and there is no charge for training or lunch, and command staff, administrative staff and attorneys are also welcome to attend.

It has been noted that in the past several years KLETC has seen the arrival of students that are not physically fit and are unable to complete the academy's initial physical assessment. Or the student(s) inform staff that they have medical or physical issues that prevent them from participating in certain areas of the basic training curriculum. Director Pavey explained that by statute he is granted the authority to conduct pre-training evaluations for admission into KLETC basic training programs. KLETC has avoided setting admission physical standards as they would eventually result in becoming the hiring

standards for all of law enforcement across the state of Kansas. However, if a person can't be admitted to KLETC, then in essence they can't be a certified law enforcement officer and work in law enforcement.

Director Pavey suggested that everyone get together and look at this issue on a collaborative basis to establish some basic or bare minimum physical standard for admission into KLETC or any of the authorized, certified satellite academy programs. It's important to screen out individuals who have serious physical problems in advance of their arrival at KLETC. Student officers could be at risk of being injured or even possibly dying as a result of an existing physical condition that could have been discovered if they had been required to meet certain physical requirements – all of which would have been found in an approved medical physical.

The statute that sets forth law enforcement officer requirements contains a clause stating the applicant can have no condition which adversely affects one's performance as a law enforcement officer. How has everyone been interpreting this statement? It may be time that we as a State and a law enforcement group form a subcommittee to start looking at this issue of basic physical standards. A law enforcement task analysis was completed in 2002 for KLETC. Part of task analysis was a set of physical standards that included eye sight and other physical requirements that were "job related". Director Pavey suggested a joint effort be convened to develop minimum physical standards that would not be a burden on agencies throughout the State but would give guidelines for minimum physical standards and the assessment of recruits. He said this information is being offered for discussion and his report was concluded.

Chairman Carmichael invited those present to continue the discussion. Executive Director Culp said he agreed with Director Pavey and that he came from an agency that had high standards for entrance to the academy and continued employment. But if the changes sought by Director Pavey are specific to the KLETC academy then by statute a subcommittee would determine the needed requirements and Executive Director Culp offered to be a part of the process.

Executive Director Culp said that if minimum standards were implemented and became applicable to all 7 academies then the standard could be tied to an officer's certification. He sees physical standards requirements as life saving for some officers. He continued by questioning the standards, were they solely for admission or would they apply to graduating. Director Pavey said the Commission needed to define the phrase "adversely affect your performance as a law enforcement officer". This phrase is contained in the qualifications for an officer to be admitted to a training course; it is also listed as one of the statutory requirements to be a law enforcement officer.

Director Pavey asked what bare minimum standards should an agency use while screening applicants seeking to be a police officer certified by the Commission. Should limits on blood pressure or corrected eye sight be a part of the standards? Whatever the standards they would be applicable statewide as KLETC certifies all of the state academies but most likely setting minimum standards would not impact the satellite academies as they have far more stringent standards in use for screening potential officers.

Commissioner Hanson cautioned against setting standards that didn't screen for joint issues like elbows and knees. The agency she works for hired a man who was extremely physically fit and passed the agility test. However his knees were bad and it impacted his ability to perform certain tasks. The agency human resource staff, together with Workman's Comp staff developed a fit for duty criteria that was job related.

Sgt. Stowers raised the issue of applying a minimum physical standard to all law enforcement officers in order to remain certified and not just to applicants. Director Pavey said that's an issue that needs to be discussed as part of the process. It's possible a two or three tier certification could be devised.

Commissioner Breshears explained the standards for the Kansas City Kansas Police Department were tied to job task analyses. He said that was important to stand up to possible challenges. Deputy Director Beck responded saying KLETC staff did a job task analysis based on a generic job description for law enforcement officers statewide.

He continued saying there are two levels of certification for law enforcement officers in Kansas, full time or part time. The minimum requirements for each certification are set forth in the statute KSA 74-5605 which contains a list of qualifications to be met by applicants. The Commission is charged with creating and enforcing those standards.

One of officer's those standards says "is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement duties". Deputy Director Beck said he routinely receives phone calls from agencies asking him to explain what that means. He said he doesn't have an answer for them. Currently each local jurisdiction makes that call on individual basis. The request today is to answer the agencies questions as to what are the basic required physical minimums for aspiring certified law enforcement officers in the state of Kansas.

Executive Director Culp responded saying a consultant would have to be hired to define the basic minimums for the Commission. Director Pavey agreed that may be the case. However Commissioner Breshears reminded the group of a similar process that occurred a few years back when the legislature passed HR-214. He said Range Masters from all over the state were called to a meeting at KLETC. Through their joint efforts an annual range recertification course was developed as a minimum standard for retirees to meet every year. Commissioner Breshears said he heard no "blow back" from anybody in the state about those standards that were developed at a grass roots level.

He continued, suggesting the formation of a committee to address the minimum physical standards. One component of the process would involve convening the Physical Education instructors from all of the academies state wide. Bringing them together ensures a balanced reasonable consensus for physical standards.

Commissioner Blecha said it appeared the Commission lacked complete information on the issue of minimum standards and that limited discussion and decision making. Perhaps the subcommittee that was mentioned earlier should be formed in order to gather information and present it to the Commission. This way an informed decision could be made. Before this could happen Commissioner Hansen asked for clarification on the proposed standard. She wondered if the standard was only for admission and completion of the academy or was the standard to remain in effect for the duration of the officer's certification with reviews on an annual or biannual time frame.

Commissioner Stowers said the standards were synonymous. Director Pavey agreed with him explaining the establishment of a base line set of standards related to physical ability for admission to the academy would become the hiring standard throughout the state. He continued urging the Commission to gather together and figure out what minimum standards they should be using. A set of physical standards

based on the KLETC task analysis has been developed by KLETC in conjunction with the doctors of KU Medical Center. Minimum physical standards could be developed based on the foundation of that task analysis.

Director Pavey suggested the Commission begin by defining the standard's phrase "physical or mental condition which might adversely affect the applicant's performance of a police officer's or law enforcement duties". What does that mean? Commissioner Hansen volunteered to help define the "physical condition which would adversely affect the performance of a law enforcement officer's duties.

Executive Director Culp said a doctor would make the determination whether an applicant was free of any physical condition that might adversely affect his performance of law enforcement duties. Director Pavey asked if the applicant just went to a doctor and requested a "physical" without consideration of law enforcement duties would that be acceptable. Chairman Carmichael asked if KLETC had admission requirements specifying a certain number of pushups etc. Director Pavey said a general physical screening assessment was conducted on cadets when they arrived at KLETC to determine if there were any possible undisclosed physical issues. From time to time conditions are found such as high blood pressure and cadets are told they can't begin (or in some instances continue) the basic training program until they've been assessed by a medical professional. They are given a 6-page form to take to their doctor right then. The form outlines the physical tasks they will perform while in training and asks the doctor if they can perform the tasks safely. Executive Director Culp suggested that the 6-page form be included in the pre-training packet for all applicants to be evaluated by their doctor. Chairman Carmichael asked if the standards being used had been formally adopted with specific blood pressure limits and BMI parameters for example. Deputy Director Beck replied there was no standard but there was a form describing the activities to be conducted in training. The student is given the KLETC developed form and sent to his/her physician for an opinion as to whether his/her physical condition would permit him/her to perform the training activities. Chairman Carmichael asked if this fulfilled the needs of KLETC for their mission of training new officers or was something else needed.

Assistant Director Dave Warry explained that cadets routinely arrive with an array of physical conditions. They are screened upon arrival for elevated blood pressure. As an example, there have been student officers that arrive at KLETC that are 5'9" and weigh 410 pounds and can't do one push up. KLETC staff is concerned for the health and well being of everyone attending Basic Training and especially those with disproportionate height and weight.

Chairman Carmichael asked if the statute gives KLETC staff the prerogative to establish standards, bring them to the Commission for acceptance or rejection. Director Pavey responded by outlining a situation where an individual was deemed unfit for Basic Training because of a physical issue by KLETC standards. The chief or sheriff that hired the officer said the officer doesn't have a physical or mental condition which might adversely affect his performance of a police officer's or law enforcement duties because they sent him to a doctor for a physical, and the doctor says he's OK. So there is a statute, a doctor's opinion and standards that at times are not in agreement with one another.

Director Pavey said he would prefer a coordinated effort by the Commission and everyone on the same page with this issue. Chairman Carmichael suggested that the group break for lunch and at the same time secure copies of the six page form used by KLETC for review after lunch. He also admonished Commissioners to not discuss the issue over lunch which would be a violation of the Kansas Open Meetings Act. The meeting is to resume at 12:15 pm.

Chairman Carmichael called the meeting to order at 12:22 pm. He continued saying there was no way this issue was going to be resolved on this day not that anyone expected that but it has been a preliminary discussion. He suggested a subcommittee of volunteers be formed to explore these issues and make recommendations. This could be a process that could take some time.

Commissioner Keller expressed concern over one physical standard for all departments. He would like to see the six page form used by KLETC that is sent with questionably unfit cadets to their doctors as he wants to make sure the physical standards used by his department are equally stringent. He wouldn't want to have to begin the hiring process over because a recruit from Andover PD failed the KLETC standards. He sees the benefit of utilizing standards earlier in the hiring process. Commissioner Ralston explained his agency requested a doctor's report on the health of their new hires but they didn't submit any questions. He thought it would be a good plan to use the same questions and avoid problems in the future.

Commissioner Bush asked what other states use. He continued saying we couldn't be the only ones interested in this. Director Pavey replied saying a lot of states have really firm hiring statutes in place and some utilize the Cooper Method. The process utilized is backed by statute. Executive Director Culp said he thought most states did not have specific hiring standards.

Chairman Carmichael asked Deputy Assistant Director Damitio to share his information about other states hiring standards. He said two previous employers had hiring standards. The Washington State Criminal Justice Training Commission had no physical or medical standards. But the screening physical was done at the request of the state's retirement system. Applicants had to pass the Cooper Standards at the fortieth percentile. These standards were developed by the Cooper Clinic a part of the Institute for Aerobics Research in Dallas Texas. They have tested law enforcement offices for the past twenty years establishing base lines for a broad variety of law enforcement officers of different genders and ages on standardized tests.

Deputy Assistant Damitio continued relating his experience in the state of New Mexico. Their academy had a very comprehensive medical screening which included vision standards and blood pressure parameters. In addition of the first day of the academy cadets had to pass the Cooper Standards at the fortieth percentile.

Chairman Carmichael asked him about the New Hampshire requirements. Deputy Assistant Damitio said they were the only state in the nation with continuous fitness requirements. While many states have requirements that are applied upon admission or completion of their law enforcement academy, New Hampshire is the only one that subjects law enforcement officers to annual physical fitness testing. If the officers don't pass they are either remediated or they lose their job. That's the stick approach. He continued explaining that North Carolina uses an incentive approach. The legislature established a fund that is used to reward officers with a \$3200 payment who meet their physical standards.

Director Pavey directed everyone's attention to the Pre-Training Form Part 1 (pink sheet). The qualifications for law enforcement officers are listed in Box 1. Every chief or sheriff that sends a new officer to KLETC for training signs off on the form signifying the new officer is free of any physical or mental condition which might adversely affect the applicant's performance of a police officer's or law

enforcement officer's duties. Director Pavey explained this is part of the pre training screening process he developed and is allowed by law.

He continued with the Medical Verification of Physical Ability which specifically refers to Physical Condition. This form asks a recognized health practitioner to examine and certify that the candidate, based on a physical exam administered within the 12 months prior to Academy admission is free from any physical condition which would prohibit the applicant's participation in physically strenuous training activities held at the Kansas Law Enforcement Training Center or at any certified state or local law enforcement training academy.

Director Pavey said staff at KLETC discussed the option of sending both forms out ahead of time to agencies saying the physical condition requirements must be met before an individual is hired or upon hiring a person make sure their doctor sees this document and signs off on it ensuring that the individual can participate in physically strenuous training activities while training. Problems arise when a new recruit cannot participate in some training activities yet the agency head has sent in a signed Pre-Training Form Part 1 attesting that the student satisfies all of the requirements to be a law enforcement officer as provided in KSA 74-5605 and listed in Box 1 of this form. This is a conflict.

Executive Director Culp asked if Medical Verification of Physical Ability is currently being used and does it identify the doctor and what kind of practice he has so the student can't bring back his form signed by an acupuncturist. Director Pavey said the form states 'a recognized health practitioner'. How that is defined is open for discussion. There are a variety of medical providers such as nurse practitioners with authority vested in them by their employing doctor to conduct physical exams. Commissioner Keller clarified that the second document, Medical Verification of Physical Ability, is currently only used after a student arrives at KLETC for basic training and has a problem.

Executive Director Culp asked if the form could be adopted for use before the student arrives at KLETC. Director Pavey explained that if the form is used before the student arrives then it becomes a hiring standard as the student couldn't be accepted into the program without the form. Executive Director Culp suggested the Commission adopt this form for use by KLETC. Director Pavey explained it wouldn't be just for KLETC though as they certify all satellite academies for curriculum and physical standards within the state of Kansas and it would have to apply to all.

Commissioner Miller suggested the Medical Verification of Physical Ability form be sent to every law enforcement agency in the state with information that these standards must be met by the recruit before KLETC will accept them and that the standards should be considered part of the agency's hiring decision. Deputy Director Beck interjected that provisional certification is required of every candidate for admission to the academy and the qualifications (see Pre-Training Form Part 1) require a candidate to be free of any physical or mental condition which might adversely affect the applicants performance of police officer's or law enforcement officer's duties.

Director Pavey observed the issue is a vicious circle, which is why he's requesting the Commission define what Qualification H means and then develop some bare minimum standards. As it stands when an agency hires a person they are certifying the individual meets the qualifications as determined by the law and they become provisionally certified. Commissioner Miller said if the agency knew they had to meet the criteria of the Medical Verification of Physical Ability then that would avoid the problems of unqualified recruits reporting for Basic Training.

Commissioner Ralston said he didn't offer a job to a candidate until he received the doctor's report. Director Pavey asked what is the standard used by the doctor. Commissioner Ralston said he could withdraw an offer of employment based on information received from the doctor's report showing a candidate is physically unable to be a law enforcement officer. Commissioner Hanson said that must not be the case for every agency.

Commissioner Keller said if agencies had the standards up front in the hiring process unfit candidates would be weeded out. Commissioner Bush asked if most agencies allowed candidates to use their own doctor. He continued saying his agency contracted with a physician to provide physicals based on their standards. Director Pavey said a lot of the agencies aren't able to hire a doctor so they let the applicant go to their own physician. He also said he had received inquiries asking what a doctor should be checking for. Some states provide a checklist to the medical professional that gives a list of the factors and conditions that should be evaluated.

Executive Director Culp said Director Pavey was correct in saying a physical condition standard becomes an employment standard and a certification issue. The Highway Patrol Academy and the Johnson County Regional Academy will have to start using the same form and submit the completed form before provisional certification can be granted. He continued saying KLETC isn't the only stakeholder in this process. Director Pavey agreed and again stated that's why it's necessary for the Commission to discuss this issue.

Commissioner Keller asked if the physical standards would be an employment standard or an admission standard to the academy. This is important as there are situations where a certified law enforcement officer may change jobs and be hired by another agency. Would a medical exam be required in this case? Director Pavey said at this time as long as the individual was within the 5 year window and still certified there would be no need.

Discussion continued whether the medical exam would be a hiring standard or an Academy admission criterion. Commissioner Stowers asked how a distinction could be drawn between the two. If it's a hiring standard then wouldn't it apply to all law enforcement officers? If an individual meets the standard one time and is hired then will employment continue without additional physical condition assessments? What happens if a person meets the standard and is hired and two years later can't meet the standard. At that time can he meet the qualifications, i.e. is he free of any physical condition which might adversely affect the applicant's performance of a police officer's or law enforcement officer's duties. Commissioner Stowers said if a standard is set that an applicant has to meet condition X, Y and Z then shouldn't the criteria be applied across the board?

Executive Director Culp responded there are two levels of certification, provisional which is in place until a recruit graduates and then upon graduation the recruit becomes a certified law enforcement officer. The statute requiring the physical assessment could expire upon graduation and monitoring the physical condition of an officer after that could become an agency responsibility. Chairman Carmichael also cautioned about the requirements for the Americans with Disability Act, physical standards must be closely tied to essential job functions. He also cautioned about the impact standards might have on an officer working who then becomes injured. This could impact Workman's Compensation and or KP&F benefits. Obviously there are many facets to this issue with no hope of resolution this afternoon. Commissioner Hanson interjected that in many cases injuries that affect an officer's ability to work are

from off duty accidents. She further explained that if an officer is seriously injured on duty before they can return to work they must have a fitness for duty examination based on the qualifications and standards provided to the doctor. If they pass they can return to work.

Chairman Carmichael suggested that a subcommittee be formed comprised of Commissioners Hanson, Stowers, Keller, and Blecha; representatives of KLETC and KS-CPOST; and an unspecified training academy director. Commissioner Ralston made a motion to establish a subcommittee to investigate physical and mental requirements as it relates to KLETC as well as continuing certification as a law enforcement officer. The motion was seconded by Commissioner Blecha.

Chairman Carmichael also asked Executive Director Culp to take the lead in organizing and scheduling the committee meetings as KS-CPOST has ample room to hold the meetings. This completes Director Pavey's report.

Legal Issues Report

Chairman Carmichael called on KS-CPOST Legal Counsel Eric Williams, also a Special Assistant Attorney General to make a report on differing legal opinions proffered by Attorney General Carla Stovall and Attorney General Stephan Six which require decisions to be made by the Commission.

Mr. Williams began by referring to the minimum qualifications for a law enforcement officer, as previously discussed by Director Pavey, and contained in Kansas Statute 74-5605. He directed everyone's attention to the pink sheet entitled, Certification of Student Eligibility to Attend Basic Training, also known as, Pre-Training Form Part I. Item (c) which states....has not been convicted, does not have an expunged conviction, and on or after July 1, 1995, has not been placed on diversion, by any state or the federal government for a crime which is a felony or its equivalent under the Uniform Code of Military Justice.

This Attorney Generals' opinion applies to juveniles and how the statute affects them. The first Attorney General's opinion referring to adjudicated juveniles was 99-34 and it was issued in July 13, 1999. The opinion, written by Mary Feighny, Assistant Attorney General said because the statute refers to a conviction it doesn't apply to juvenile adjudications. Counsel Williams explained that if he was a juvenile adjudicated as a felon he would be eligible to be a law enforcement officer.

Because juveniles are able to be placed on Felony Diversion they are excluded from this opinion. As a result of this decision Counselor Williams has received calls from agencies asking if a candidate, who was not adjudicated but accepted diversion for a felony charge while a juvenile, could be a certified law enforcement officer. Based on this opinion the answer is no. However, if he had been adjudicated then he could be hired.

Chairman Carmichael said in essence it's like being found guilty after a trial. Counselor Williams explained it's not a conviction, the opinion clarified if the defendant is mapped up, or a motion for adult prosecution as a juvenile was made and he enters the world where he can gain a conviction then the statutory language kicks in and the candidate would be precluded.

Counsel Williams continued explaining the new opinion, how the Commission adopted it and how it affects the business of the Commission. The 1999 Opinion had been accepted and adopted by the Commission and used as a guideline to issue or deny provisional certifications. When an agency

inquired about possible certification for an individual who had received diversion as a juvenile they were told certification was not possible. The applicant approached the Saline County Attorney who in turn called KS-CPOST Counselor Williams for more details and the Commission position and vested authority was explained.

Next Counsel Williams received a letter from the individual's counsel asking the same thing, a reply was sent explaining the Attorney General's opinion and the site address, the position and the historical perspective was included. Then KS-CPOST received a letter from Kansas State Senator Taddikn serving Clay, Cloud, Jewell, Marshall, Nemaha, Republic, Riley and Washington Counties, as he had been approached by the individual and his counsel. Senator Taddikn asked Attorney General Six for another opinion, or to review the opinion or for his opinion on the facts.

The newest Attorney General Opinion, 2010-11, also written by Mary Feighny, reveals Attorney General Six did not agree with the prior opinion and reversed Attorney General Stovall's opinion. There is no legislative history but the dichotomy of an adjudicated juvenile not meeting the certification criteria cannot stand. Counsel Williams explained a letter was received from the applicant's counsel asking KS-CPOST to reverse position on provisional certification of his client.

This course of events calls for discussion and decisions from this board on policy changes that are needed. Chairman Carmichael explained the policy changes would not be made in response to this specific individual's application. Rather they would reflect changes based on the Attorney General's opinion. Based on Attorney General Six's opinion both adjudicated and diverted juveniles would meet the criteria to become a certified law enforcement officer. The opinion hinges on the status of the juvenile at the time.

Executive Director Culp said he sent out an email to Commission members with the Attorney General's opinion attached prior to this meeting. He included the current policy of the Commission which is not to accept convicted felons if they were diverted as juveniles. The policy of the Commission did not change because of the change of opinion as the Attorney General's opinion does not carry the force of law.

This Commission has three options: continue abiding by the old opinion; legislative- a legislator may introduce a bill that clarifies the policy, may clarify that a diverted juvenile plus an adjudicated juvenile are not eligible to be law enforcement officers because they are felons; or abide by Attorney General Six's opinion. Executive Director Culp continued saying in his many years of experience no law enforcement agency or head of agency has ever defied an Attorney General's opinion. All are on the same sign of the law and agencies abide by the AG's decisions.

If the Commission chose not to defy AG Six's decision, Executive Director Culp contends they will be sued by a refused applicant. In event of a court action against the Commissioners the Attorney General's Office would defend them. In a situation such as this it would be a very bad situation for the AG's office to defend the actions of the Commission that did not adopt policy to support the AG's opinion.

Discussion continued regarding the number of applicants affected each year. Executive Director Culp explained this opinion impacts the 50 per cent of Kansas agencies made up of 5 or fewer staff. Located in sparsely populated counties, paying wages that are barely above minimum standards the applicant

pools are limited. An applicant that hasn't been in trouble for 15 years is a good candidate by their standards.

Although the AG's opinion does not differentiate concerning the crime committed by the juvenile Commission members expressed concern that severity and type of crime might be considered. Some of the Commissioners indicated a candidate with a diverted or adjudicated felony background as a juvenile would not be hired by their agency. However, they understood a similar candidate might be more accepted in an area with a sparse hiring pool. Concerning the individual whose interest in being a law enforcement officer prompted Attorney General Six's opinion, Counsel Williams explained this person's diversion was set aside because he received a DUI but he was adjudicated after that while still a juvenile. The request made to KS-CPOST was that he be granted provisional certification because he was adjudicated as a juvenile.

Chairman Carmichael asked if the Commission was near a consensus on this matter. He reminded them of a possible option, they could suggest to legislators that this problem be fixed. He asked if the Commission was near a consensus. Commissioner Jarboe made a motion that the KS-CPOST follow the current Attorney General's opinion. The motion was seconded by Commissioner Bush. Before voting Commissioner Miller asked if the Commission wanted the legislature change the exception to allow juvenile adjudication of a felony charge.

Chairman Carmichael suggested the Commission vote on the current motion and after that address proposed changes through the legislature. Keeping in mind the next meeting will be in January and the legislature will already be in session. Best bet may be to determine what path to pursue through legislator to address this matter at this meeting. There is no rational distinction between allowing provisional certification for an adjudicated juvenile but not for a diverted juvenile. Chairman Carmichael called the question and the motion passed unanimously.

Chairman Carmichael asked the Commissions' will concerning legislative recommendations for this same topic. Discussion centered on the many small agencies in southwest Kansas, their limited hiring pools and the difficulty they encounter with candidates who have experienced some legal challenges as juveniles. It was also pointed out that relaxed standards may lead to more problem officers. It was suggested that the chiefs or sheriffs doing the hiring could be trusted to assess the candidates' qualifications and character.

Chairman Carmichael summarized discussion saying the Commission has agreed to follow the most recent AG's opinion. What remains unanswered is this body going to make any recommendation to the legislature. Executive Director Culp interjected that if this issue goes before the legislature he would likely be asked to testify. He would want to have a meeting or conference call to gather input from the Commission prior to testifying.

Commissioner Hanson asked if an applicant who was adjudicated as a juvenile was denied due to the severity of the crime. Surely some serious crimes become a moral character issue that may send the wrong message to the community. She stated she did think a juvenile with either a diverted or adjudicated felony should qualify to be a law enforcement officer.

Chairman Carmichael clarified her comments and said Commissioner Hanson made a motion that KS-CPOST recommend to the legislature that the statute be amended to disqualify juveniles who have

felony diversion or adjudication. Commissioner Blecha seconded the motion. Director Pavey suggested that an effective date be included. This would prevent individuals adjudicated or diverted as a juvenile but already hired from losing their job. Chairman called for a vote and it passed 9 to 2 with Chairman Carmichael and Commissioner Miller voting against the motion.

Commissioner Keller asked if the motion calls for Executive Director Culp Director to pursue legislation, not just support it. Commissioner Hanson clarified the motion saying Executive Director Culp take legislative action. Chairman Carmichael explained that Executive Director Culp would work with the Kansas Peace Officers Association and other professional law enforcement organizations on this issue.

Counsel Williams continued his report changing to the topic of random drug testing. He began by explaining the topic was initially brought up at the January 28, 2010 KS-CPOST Commission meeting but it was left unresolved as there wasn't a lot of information to present at that time. Information had been received from a department that had staff that failed a random drug test. The information was presented to KS-CPOST staff to review for action by the Investigative Committee and the Hearing Committee.

Procedures of other "POSTS" were explored. Depending upon how they are structured determines the response. Many Posts don't take action on certifications, others don't take action except in the case of felony convictions, a few took action, such as Florida, but the extent of the action is unknown.

Executive Director Culp provided background information on this matter of random drug tests. He said that at one of the KS-CPOST Investigative Committee meetings an instance of a law enforcement officer who tested positive for cocaine based on a random drug test was brought up. The documentation is in order but there is no policy for this type of incident.

At the IADLEST conference, held last June in Corpus Christi Texas Executive Director Culp conferred with other POST directors. He found their policies varied. Some directors don't want to touch this issue because of medical and privacy issues. In some settings the drug testing is done through the Human Resource Departments who believe law enforcement officers should be treated no differently than any other staff member. Law enforcement professionals believe that police officers uphold something a different than the standard city worker.

One such agency sent in paperwork documenting a positive test for drugs by one of its police officers but there is no KS-CPOST policy. Executive Director Culp would like to investigate, to hold hearings and if appropriate, to decertify those who test positive for narcotics. The matter of random drug testing is so new there is wide range of responses from state to state. Some of them say there is no room for drugs in law enforcement and they act. Others say they can't touch the issue as they don't have a policy or a POST requirement. One agency shames their officer into voluntary surrender through threat of a public hearing. Executive Director Culp said while he did not endorse that policy KS-CPOST staff needed direction from the Commission. If none was forthcoming the file would be inactivated. He predicted there would be other problems in the future.

Chairman Carmichael said other options for action were available besides revocation and decertification. Discussion ensued Commissioner Stowers asked for general guidelines on how KS-CPOST would handle these drug testing investigations, exactly what kind of information will be required in KS-CPOST files before action is taken. This is important because the drug testing policies and

procedures between departments lack of uniformity. He is seeking information on standards to be set by KS-CPOST before action is taken against a particular individual.

Executive Director Culp explained the national standards of the Department of Transportation are used most places for drug testing and analysis. Random drug testing has a higher expectation of privacy than normal information. Commissioner Stowers questioned what type of cases would CPOST accept and be interested. Would agencies determine the cases sent to CPOST and would those vary between departments. Executive Director Culp said there were officers using drugs and without KS-CPOST policies they would merely move from one agency to the next.

Chairman Carmichael said in Kansas possession of less than an ounce of marijuana is a misdemeanor while possession of a trace of cocaine is a felony. Differences in scale must be considered. KS-CPOST does not take an officer's certification after their first DUI but it is a misdemeanor that endangers the public safety and someone could be killed.

Discussion ensued and the point was made that a positive random drug test while an officer is on duty is not just a moral issue it's a safety issue. Decertification is not advocated in misdemeanor cases but it is in felony cases. Options include continuing with no changes or trusting the investigative committee to do the right thing based on the circumstances.

Commissioner Maple asked how the Commission would handle a positive result for a random drug test of an on duty officer versus a drug test for probable cause. Because an officer is thought to be under the influence, a test is ordered with an administrative employment action to follow if the test is positive. Commissioner Keller said if the officer tests positive the issue is not whether he is under the influence of the substance but rather that he's testing positive because it's in his system and that's a violation of the law. The Andover Police Department has a random drug testing policy. That policy allows random testing, testing automatically after every accident, and if there is an indication of any impairment there is a right to test. Tests for all of these varying situations are permitted under the Andover Police Department random drug testing policy.

Many scenarios of possible drug use both legal and illegal were posited by Commissioners, underscoring the complexity and seriousness of the issue. Commissioner Stowers said he was in favor of weeding out drug using law enforcement officers. His department acts on positive results based on DOT guidelines and standardized testing procedures. What would trigger KS-CPOST to move ahead on these types of cases?

Executive Director Culp explained random drug testing is done by Human Resource Departments in agencies. Prosecution is not the aim; instead last chance agreements are implemented and individuals are referred for counseling and subject to routine testing. Prosecution is not an option in cases of positive testing having drugs in one's system does not equal possession. Department policies may permit a last chance agreement for a law enforcement officer who tests positive for a substance like marijuana but if the leo tests positive for a substance tied to a possible felony charge no rehabilitation is made available. Likely they will be terminated and offered counseling/treatment after the fact.

Chairman Carmichael asked how many departments in Kansas terminate officers that test positive in a random drug test. Executive Director Culp said there weren't many departments in Kansas that

performed random drug tests. Associate Director of KLETC John Green said a few departments would automatically terminate an officer but most offer rehabilitation.

Deputy Director Beck explained he had litigated many administrative boards dealing with individuals challenging how the process was challenged how the process was conducted for urinalysis drug testing. He said some of the complex issues had been brought up by the Commission but there are more issues out there. He recommends that before the Commission takes a stance in favor of rehabilitation or not a formal policy should be drafted and adopted by the Commission. The policy would include how the procedure is to be done; what procedures will be acceptable or not; spell out the DOT standards.

Chairman Carmichael agreed with Deputy Director Beck and said if the consensus of the Commission is to do something about this matter then Counsel Williams would begin work. Commissioner Maple said the State of Kansas has a probable cause testing criteria. But the first time someone is involved in the process it's a presumptive assistance process even for safety sensitive positions, including law enforcement positions. Whatever policy is drawn up must be uniform for all officers because Deputy Director Beck is right and it will be challenged. He is supportive of Commissioner Hanson's department policies and when it comes to drug use or impairment law enforcement officers must be held to a higher standard.

Chairman Carmichael summarized saying no action on this topic is required just because it was brought up but if someone feels action is warranted now is the time to say so. Executive Director Culp indicated this was a new and burgeoning topic that's coming up in all the states and not many of them are dealing with it yet but some are as Counsel Williams said. Chairman Carmichael asked if anyone knew how large a problem drug abuse by law enforcement officers is in Kansas as far as those who test positive. Executive Director Culp said if new policy is implemented there may be quite a few initially but after the first wave the problem diminishes.

Chairman Carmichael asked again if anyone knew what kind of problem there was in Kansas with officers testing positive in random drug tests. Executive Director Culp replied it was unknown at this time as most agencies did not inform KS-CPOST of any results. He continued explaining the case that prompted this discussion KS-CPOST was informed of the situation because the officer was terminated. The Deputy Counsel of the government of a rather large city provided documentation and requested the officer be decertified as a law enforcement professional in the state of Kansas. However, there is no policy authorizing that action in this circumstance at this time.

Chairman Carmichael asked for further discussion, a motion or recommendation for further research by Counsel Williams. Commissioner Maple suggested the Commission should look into this matter further, gather more information about what's happening out there rather than take no action at this time. Perhaps some Commissioners could collectively assist Counsel Williams gather data and formulate a plan of action. The problem won't go away.

Chairman Carmichael suggested to the members of the Commission that they provide information from their areas of expertise or interest to Counsel Williams in order to present information at the next Commission meeting. Deputy Director Beck was also asked to make his information on the subject matter available to Counsel Williams.

Chairman Carmichael called for a 10 minute break.

Executive Director's Report

Executive Director Culp began his report with KS-CPOST expenditures for the year explaining they totaled \$110,000 not including salaries and benefits. As always a detailed list of payments is available for review. A graph was included showing the increase in total expenditures for KS-CPOST since 2007. As the agency duties have grown so have expenses.

Revenues are up; showing each month's revenue between July 1, 2009 and June 30, 2010 averages \$57,513.19 per month. Revenues for the year total \$690,158.29. The projected budget for FY 2011 is \$650,000 or an average of \$54,166 per month, which is well below our current monthly average revenue of \$57,513.19. There is graph showing the revenues from the past 4 years. There is an uneven payment pattern by the courts for whatever reason. KLETC Associate Director Green has been diligent in contacting the courts and urging prompt payment from them.

Executive Director Culp directed attention to the KS-CPOST budget for 2011. Noting the narrative information about CPOST, he explained there are 7 employees and an empty position that may be filled by one full time or two part time employees. The expenditures for FY 2010 could have been more but he doesn't believe in spending money just because it's available.

Concerning the status of Kansas law enforcement the Commission might notice that in 2010, for the first time in 10 years there were fewer full time Kansas peace officers than the year before. Executive Director Culp says there are 24 sic (39) fewer officers employed in 2010 than 2009. It is unknown how many officers will be trained and certified in 2011 but it appears the downward trend is continuing. If the economic trend continues it could impact our revenues.

Executive Director Culp moved on to the KS-CPOST organizational chart. There is a Commission vacancy as Sam Breshears has retired. A number of nominations have been made and we are waiting for the governor's selection.

Reviewing the number and type of law enforcement agencies Executive Director Culp explains that fifty per cent of Kansas Law Enforcement Agencies have 5 or fewer employees; 22 per cent have between 6 and 10 employees; 7 percent employ 11-15; 9 per cent have departments of 16-25 people; 7 per cent have between 26-50 people; 3 per cent have between 51-99 employees and 3 per cent employ over 100 individuals. If small communities continue to lose funding there could be some changes in the bottom 3 categories.

The Law Enforcement Agencies by Function chart shows there are 266 municipal agencies; 104 county agencies; 3 Departments of Public Safety; and 64 other agencies which include railroad police, campus police and the like. This information concluded Executive Director Culp's report.

Commissioner Maple made a motion to accept Executive Director Culp's report. It was seconded by Commissioner Hanson. The motion passed unanimously.

Executive Director Culp discussed his professional activities for the past year, he attended one out of state conference this year, IADLEST held in June, 2010 at Corpus Christi Texas. The Commission authorized his attendance at the IACP, NSA, and KACP to represent them. Considering the economic

difficulties of the state he postponed going to those conferences. He reported he was elected to President-elect of KPOA. He feels this reflects well on KS-CPOST.

In order to assure compliance for some Kansas Law Enforcement Agencies Executive Director Culp trained them in racial profiling. He also trained the KS-CPOST investigators. He's also about 90 per cent done developing an Investigative Database which will allow internal tracking of cases. While on vacation in Florida last February Executive Director Culp was hit by a car which broke his leg in two places and he missed some work due to the injury.

Executive Director Culp also praised Chairman Carmichael's efforts in holding off any reductions in KS-CPOST's budget this past year. It is a very good thing that tax revenues are not a part of CPOST's budget. Work has been progressing on the separation of computer records between KLETC and KS-CPOST. To date the training database, which is separate from the Central Registry, has been moved to a separate server of CPOST. While this is mainly an internal matter, training data that is entered online now comes to us. Administering the data is going to be Part II. Part III will comprise an integrated data base project. Depending on available funding, which seems to be available, Executive Director Culp will write an RFP for a computer program that will go out to the State and take in all aspects of training and registry. The Central Registry data will remain at KLETC until the integrated data base is implemented. At that time KLETC will be able to get at least the same amount of information that's available now and probably a lot more.

Chairman Carmichael asked for a status report on the paper files that remain at KLETC and was informed that it is quite a process to separate KS-CPOST paperwork from the KLETC records. It is time consuming. Executive Director Culp explained the process of hiring temp help, training them and the necessity of waiting until the last quarter to make sure adequate funding is available.

Chairman Carmichael asked if the files were so dated that separation wouldn't be necessary. Deputy Director Beck explained that Commission records were mixed in with privacy protected academic records. The mixed records cause issues and concerns when Open Records requests are received. KS-CPOST has made staff available to pull files and try to avoid imposing on KLETC staff. Because the records were initially set up alphabetically it is not possible to determine the inactive files as they are interspersed throughout the numerical listing used now. Current files are being established separately and have been since 2008. Executive Director Culp will work with KLETC staff as the planned changes are implemented.

Old Business

Chairman Carmichael asked if there were any additions, corrections, or modifications to the minutes. Executive Director Culp said in the motions section at the end of minutes there was a numbering problem with the resolutions that would be corrected. Commissioner Bush made a motion that the minutes be accepted with the noted correction and it was seconded by Commissioner Blecha. The motion passed unanimously.

Chairman Carmichael said some Commissioners terms have expired at least by virtue of what their appointment letter stated. Commissioners will continue to serve until successors are appointed. It is understood that all incumbent Commissioners will receive a Governor's letter extending their appointment. The replacement of the training commissioner is under consideration by the Governor's office.

When that Commissioner is appointed there will be some realignment of committee assignments, for example the Hearing Committee; Commissioner Bush moves up to become a regular member and an appointment will need to be made to fill the alternate slot. In addition presuming the resolution from KLETC for a subcommittee on training passes then there will be three appointments to be made. Unless there's an objection Chairman Carmichael will designate the Training Committee Commissioner as the chair of that subcommittee. Anyone who wants to volunteer for a particular position should contact either Executive Director Culp or Chairman Carmichael.

Deputy Assistant Director Damitio provided a report on the status of the Kansas County District Attorneys Association. Some suggested modifications to the advisory council on curriculum were provided to KCCDA and they were accepted. A meeting has been set up for finalization of the curriculum changes. A new subcommittee has been appointed made up of law enforcement trainers, law enforcement officers, members of the Attorney General's office and KCCDA to serve as a curriculum subcommittee. The first meeting will be held in a few weeks.

Deputy Assistant Director Damitio finished his report by providing information on the proposed changes for the notebook, the KLETC recommendations have been accepted by the Governor's Advisory Council. Chairman Carmichael thanked all who were a part of that effort.

Commissioner Bush provided an update of the Governor's Task Force on Racial Profiling. Referred to the legislative moratorium requested with wide support earlier in the year of Senate committee, Senate Bill 435 ended up as a floor amendment. It passed the House 118 to 1 was sent to the Senate and it was tabled. Four committees were set up for the task force: Training Committee, Data Collection Committee, Citizen's Advisory Committee and Investigations Due Process and Court Committee.

Commissioner Bush chaired the Data Collection Committee, they met four times. He thanked Executive Director Culp for the use of the KS-CPOST conference room for their meetings. Main issues being dealt with: support of data collection and it seems that it will happen. Committee is trying to develop a consensus but there are many issues: what data to collect and how to collect and analyze the data. There is lots of diversity on the committee along with lots of different ideas, the diversity makes it difficult to bring back recommendations to the task force as whole. Director Pavey praised Commissioner Bush's efforts in this area.

Executive Director Culp, in response to Chairman Carmichael's request for further old business, explained two meetings ago a motion was made to support Racial Profiling Investigations being done by KS-CPOST. The committee hasn't met. There will be legislation. Executive Director Culp said he suggested the Kansas Human Rights Commission take the complaint and if needed do the investigation and then send it over to KS-CPOST for review and evaluate using our process. This would afford the possibility of due process for the accused.

The KHRC complaint process does not have a refined procedure for due process. But they oppose involving KS-CPOST in their course of action as they are not comfortable with police investigating police. Yet many professional organizations investigate their own members. The KHRC complaint process has no appeal process and their findings have no authority.

Chairman Carmichael said the next agenda item is Executive Session but he was not aware of any need for one today. He asked if any Commissioner was aware of such a need but none was raised. Chairman Carmichael did provide a brief report on the resolution passed at the last meeting regarding compensation for KS-CPOST executive director. The resolution was provided to the Governor's office along with the chairman's personal letter of recommendation. Unaware of any action as a result but the Commission tried.

Chairman Carmichael turned the meeting over to Director Pavey who presented Resolution R-2011 001 . This resolution is a written formal presentation of KAR 107-1-2(d). Back in the 1980's when the Commission was first founded administrative regulations were developed. One of the regulations stated that no officer shall work as a law enforcement officer during the time of enrollment in basic training. This was to prevent them from being in school all week and being put to work upon their return home on the weekends. Since the new recruits lack any leave that when KLETC closes for extended periods of time over the 4th of July and the week of Thanksgiving the recruits are considered "dis-enrolled" and they can work during those times. This is not a new policy it is one that has been practiced for a long time this is just a formal resolution.

Chairman Carmichael asked if there were any questions or discussion needed concerning the resolution. Hearing none Commissioner Ralston made a motion to adopt the resolution and it was seconded by Commissioner Blecha. The motion carried unanimously.

There is another resolution. Deputy Director Beck explained Resolution Number R-2011 002 is a procedural matter to establish the KS-CPOST Curriculum Committee. The statute says the director of police training shall be responsible for determining the curriculum of the program, subject to changes and modifications as directed by the Commission. Learning objectives and lesson plans are being reviewed periodically and after a number of years need to be modified. This resolution would delegate the approval process to a three member committee of the Commission rather than the entire Commission. The logistics of a subcommittee make this process more responsive to the needs of KLETC.

Chairman Carmichael asked if there were any questions or discussions needed hearing none Commissioner Blecha made a motion to adopt the resolution and it was seconded by Commissioner Maple. The motion carried unanimously. A bid for volunteers to serve on this committee was made.

Chairman Carmichael asked if there was any new business to take up hearing none he asked if there were any comments from the public. Executive Director Culp was asked to set a meeting date for the next meeting to be held in January 2011. Director Pavey suggested the first week of February but Chairman Carmichael said he would be out of state at that time. It was decided that holding the Commission meeting in Wichita in January would be the best.

Chairman Carmichael asked if there was any further business to be brought before the Commission hearing none he asked for a motion to adjourn. Commissioner Ralston made a motion that the meeting be adjourned and it was seconded by Commissioner Keller. The motion passed unanimously. The meeting adjourned at 2:55 pm.



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

July 22, 2010
10:00 am

Official Motion 2011 M 001

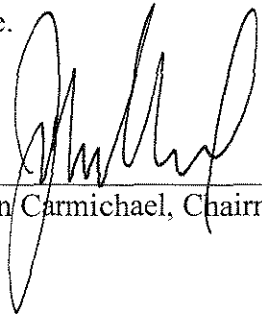
Motion: To display Commissioner Breshears honorary plaque at KS-CPOST.

Moved by: Commissioner Blecha

Seconded by: Commissioner Hanson

Members voting: Commissioners Carmichael, 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

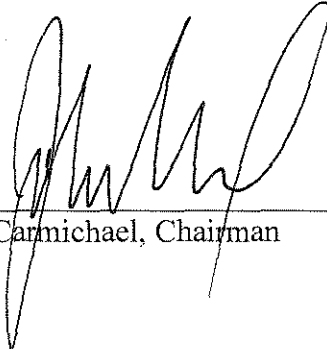
COMMISSION ON PEACE OFFICERS' STANDARDS & TRAINING (KS-CPOST)

KS-CPOST Open Meeting

July 22, 2010
10:00 am

Official Motion 2011 M 002

- Motion: To establish a subcommittee to investigate minimum physical and mental requirements for provisional and continuing certification as a law enforcement officer.
- Moved by: Commissioner Ralston
- Seconded by: Commissioner Blecha
- Members voting: Commissioners Carmichael, 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

July 22, 2010
10:00 am

Official Motion 2011 M 003

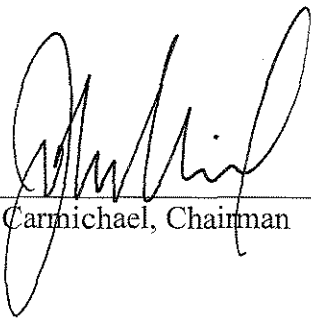
Motion: That KS-CPOST follow Attorney General Six's Opinion of 2010-11 regarding Juvenile felony diversion

Moved by: Commissioner Jarboe

Seconded by: Commissioner Bush

Members voting: Commissioners Carmichael, 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

July 22, 2010
10:00 am

Official Motion 2011 M 004

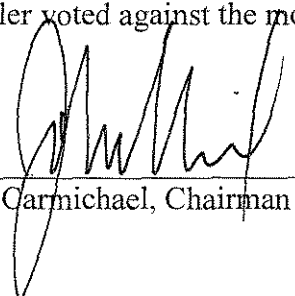
Motion: That KS-CPOST recommend to the Kansas legislature that statute KSA 74-5605 be amended to disqualify juveniles with felony diversion or adjudication.

Moved by: Commissioner Hanson

Seconded by: Commissioner Blecha

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

Action: Motion passed with a vote of 9 in favor and 2 against. Chairman Carmichael and Commissioner Miller voted against the motion.



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

July 22, 2010
10:00 am

Official Motion 2011 M 005

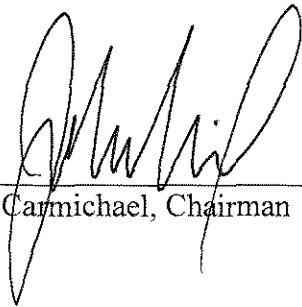
Motion: To accept Executive Director Culp's report.

Moved by: Commissioner Maple

Seconded by: Commissioner Hanson

Members voting: Commissioners Carmichael, 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

July 22, 2010

10:00 am

Official Motion 2011 M 006

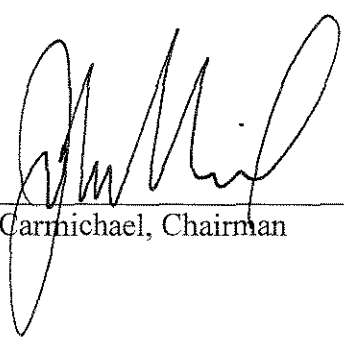
Motion: To approve Commission meeting minutes from 1-28-2010 with the noted correction of the resolution number.

Moved by: Commissioner Bush

Seconded by: Commissioner Blecha

Members voting: Commissioners Carmichael, 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

July 22, 2010
10:00 am

Official Motion 2011 M 007

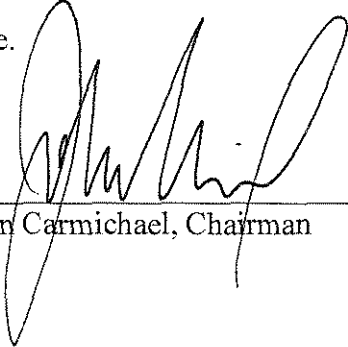
Motion: To adjourn the meeting.

Moved by: Commissioner Ralston

Seconded by: Commissioner Keller

Members voting: Commissioners Carmichael, 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

July 22, 2010
10:00 am

Official Resolution 2011 R 001

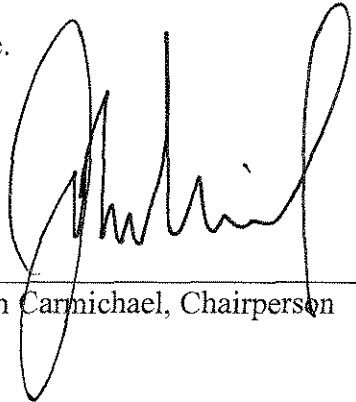
Motion: To establish a policy whereby working is prohibited for officers while they are in the mandated basic training course except for when they are temporarily "dis-enrolled" during Thanksgiving, Christmas and 4th of July breaks and other times throughout the training year as determined by the Director of Police Training.

Moved by: Commissioner Ralston

Seconded by: Commissioner Blecha

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

Action: Motion passed by unanimous vote.



John Carmichael, Chairperson



KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING ^{COPY}

Resolution Number R-2011 001

RESOLUTION INTERPRETING KAR 107-1-2(d)

WHEREAS the Kansas Law Enforcement Training Center (KLETC) on occasion closes or otherwise does not conduct basic training courses/classes for extended periods during certain holiday breaks and other times throughout the training year, and

WHEREAS typically the dates that KLETC will not be conducting basic training classes for extended periods are published as part of its annual training calendar, and

WHEREAS Kansas Administrative Rule (KAR) 107-1-2(d) states, "No officer attending a basic, mandated course shall be allowed to work as a police or law enforcement officer while enrolled in the mandated course," and

WHEREAS the intent of KAR 107-1-2(d) is to prohibit agencies from requiring officers to work weekends during their basic training enrollment so that the officers could devote their full time, attention and energy toward learning, and

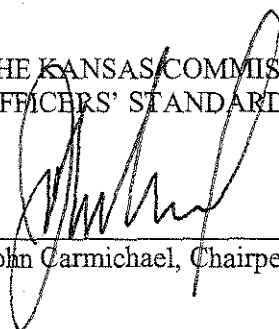
WHEREAS officers are released to return home and/or to their employing jurisdictions during those periods when KLETC will not be conducting basic training courses/classes, and

WHEREAS KLETC considers officers "dis-enrolled" during extended periods of closure or when KLETC is not conducting basic training courses/classes and thus interprets KAR 107-1-2(d) as inapplicable; now therefore

BE IT RESOLVED that the Kansas Commission on Peace Officers' Standards and Training concurs with the opinion of the Kansas Law Enforcement Training Center and interprets KAR 107-1-2(d) not to apply to otherwise enrolled students when KLETC is not conducting basic training courses/classes for extended periods.

Approved this 22nd day of July, 2010 in a public meeting of the Kansas Commission on Peace Officers' Standards and Training the date, time and location of which having previously been published in the Kansas Register.

THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING



John Carmichael, Chairperson



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

July 22, 2010
10:00 am

Official Resolution 2011 R 002

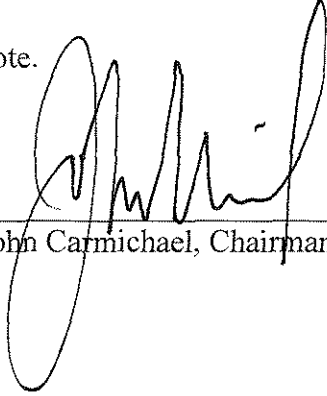
Resolution: To establish a three member standing committee to consider needed changes to curriculum. The committee will meet occasionally or as deemed necessary. This committee supports a major part of the KS-CPOST mission.

Moved by: Commissioner Blecha

Seconded by: Commissioner Maple

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

Action: Motion passed by unanimous vote.



John Carmichael, Chairman