

MINUTES

JOINT COMMITTEE ON KANSAS SECURITY

November 5, 2015
Room 152-S—Statehouse

Members Present

Representative Mario Goico, Chairperson
Senator Greg Smith, Vice-chairperson
Senator Steve Fitzgerald (appointed to replace Senator Holmes for this meeting)
Senator Anthony Hensley
Senator Mike Petersen
Senator Pat Pettey
Representative Tony Barton (appointed to replace Representative Mast for this meeting)
Representative Adam Lusker

Members Absent

Representative Kevin Jones
Representative Louis Ruiz (appointed to replace Representative Bridges for this meeting)

Staff Present

Jill Shelley, Kansas Legislative Research Department
Dezeree Hodish, Kansas Legislative Research Department
Natalie Teemer-Washington, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Chuck Reimer, Office of Revisor of Statutes
Scott Wells, Office of Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Robert Jacobs, Kansas Bureau of Investigation
Colonel Chris Stratmann, Kansas Adjutant General's Department
Mark Schemm, Division of Vehicles, Kansas Department of Revenue
Kent Selk, Division of Vehicles, Kansas Department of Revenue
Brad Neuenswander, Deputy Commissioner, Kansas Department of Education
Dale Dennis, Kansas Department of Education
Wayne Bollig, Kansas Commission on Veterans' Affairs
Dr. Jeffrey Geuther, College of Engineering, Kansas State University

Others Attending

[See attached list.](#)

Morning Session

Chairperson Mario Goico opened the meeting at 10:00 a.m.

Use of Deadly Force

Natalie Teemer-Washington, Research Analyst, Kansas Legislative Research Department (KLRD), provided an overview of federal law and Kansas statutes related to the use of deadly force ([Attachment 1](#)). The information provided uses, as an example, the federal regulation pertaining to the Department of Energy Protective Force Officer's use of deadly force; it was chosen as an example because of its clarity and its applicability to situations of concern to Committee members.

- The Federal Department of Energy definition (10 CFR 1047.7): Force that a reasonable person would consider likely to cause death or serious bodily harm.
- The Kansas definition (KSA 21-5221): Application of physical force likely to cause death or great bodily harm.

Information was provided regarding the circumstances for which the use of deadly force is justified, federal regulations for protective force officers, and provisions specific to Kansas law enforcement officers making an arrest and use of deadly force by private persons in Kansas. The specific statute was provided for security guards at nuclear facilities and the use of force for those security guards.

Robert Jacobs, Senior Special Agent, Kansas Bureau of Investigation (KBI), provided an overview of the use of force in Kansas, the dynamics of the use of deadly force, and agencies that would investigate use of deadly force at State facilities ([Attachment 2](#)). A map was provided that reflected Officer Involved Shooting (OIS) incidents in Kansas, and Mr. Jacobs stated there had been six OIS incidents so far in FY 2016, as of October 29, 2015. The purpose of an OIS investigation is to provide an impartial, comprehensive, and professional examination of the critical incident. The ultimate goal is to determine whether a criminal act occurred (either by intent or through negligence) or whether the officer's use of force was legally justified. In doing so, transparency and accountability are sought. The Association of State Criminal Investigative Agencies is working to develop best practices for investigating OIS incidents; the KBI is participating in that effort.

Mr. Jacobs reviewed these special considerations related to investigations:

- A use of deadly force incident at either the Wolf Creek Generating Facility or the National Bio and Agro-Defense Facility (NBAF) would most likely be investigated by a federal agency. For NBAF, the likely agency would be the Department of Homeland Security (DHS) or the Department of Agriculture.

- No memorandum of understanding (MOU) is in place for the KBI to automatically assume primary role of the investigation.
- The KBI would likely provide investigative assistance to the federal agency conducting an investigation in to the use of deadly force upon request.
- The Kansas Intelligence Fusion Center monitors threats to the State of Kansas. (For security reasons, no further information can be provided regarding specific Kansas Utilities in an open meeting.)
- The KBI has investigated threats to schools in Kansas. (Each school district has its own security and safety plan.)
- The Force Science Institute at the University of Minnesota has determined it takes 0.24 seconds for someone to shoot, turn, and run but 0.83 seconds for an officer to draw a weapon and return fire. The decision-making time for an officer is approximately 1.8 to 2 seconds.

Federal regulations pertaining to Title 10—Energy; and the federal code for use of physical force when making an arrest were provided. The Committee asked who would be stepping into take the lead to secure the area at the different facilities before a federal agency responds. Mr. Jacobs responded that currently the KBI does not have an MOU in place that states the KBI to secure the scene, but would do so if requested without an MOU.

Committee members had questions and requested additional information on who could carry firearms, *i.e.* security and contractors at the different state facilities; if a staff ratio of six to eight officers per supervisor is consistent across the country, and how many incidents involving OIS ended in fatality. They also asked whether legislation is needed to improve security.

Communications Governance

Cindy Lash and Jill Shelley, Principal Research Analysts, KLRD, reviewed their response to the request of the Adjutant General at the Committee's 2014 meeting to explore governance related to public safety communications policy and assets in similar states ([Attachment 3](#)). The Kansas Statewide Interoperability Executive Committee (SIEC) also stated, in the Kansas Statewide Interoperability Plan issued in April 2014, that its strategic goals and initiatives over a period of three to five years include the governance goals of reviewing and revising the SIEC charter, developing a broadband advisory group in the SIEC, and ensuring the long-term stability of the SIEC. The 2014 National Emergency Communications Plan (NECP) issued by the Department of Homeland Security placed governance at the top of its goals and recommendations.

Goal 1 – Governance and leadership: Enhance decision-making, coordination, and planning for emergency communications through strong governance structures and leadership

Recommendations: Update governance structures and processes to address the evolving operating environment ... (National Emergency

Communications Plan, 2014, p. ii; plan available from <http://www.dhs.gov/national-emergency-communications-plan>)

In response to the federal goal, representatives of the National Council of Statewide Interoperability Coordinators and SAFECOM, a DHS program supported by the Office of Emergency Communications (OEC), collaborated to conduct 20 case studies nationwide of public safety governance. The characteristics of the state and regional systems studied included a recent establishment of an independent oversight agency, home rule, successful balance to address both metropolitan and rural concerns, and Next Generation 911 (NG911) capability. More information on SAFECOM is available at <http://www.dhs.gov/safecom>.

The 2015 Emergency Communications Governance Guide for State, Local, Tribal, and Territorial Officials (the Guide) was issued in October based on the results of that study. The Guide provides recommendations and best practices for communications officials to use to “establish, assess, and update governance structures that represent the emergency communications ecosystem.” The Guide further states it does not offer nor intend to offer a “one size fits all” approach. The Guide is available online <http://www.dhs.gov/publication/governance-documents>.

The OEC coordinators for 4 of the 10 regions, who collectively currently work with a total of 19 states, provided valuable insights on the state structures that have been most effective at furthering effective governance.

The Guide addresses governance of land mobile radio (LMR), broadband, and 911/NG911. It states emergency communications governance of LMR, broadband, and 911/NG911 has evolved to include three main types of models and provides insight into the models. The Guide also points out that governance is just one aspect of the complex public safety communications environment, along with the standard operating procedures, technology, training and exercises, and usage.

A table comparing four states identifying as having effective governance structures (Iowa, Minnesota, Oregon, and Utah) and the statutes establishing their organizations was reviewed for the Committee, covering these topics:

- Enacting Authority – type, date and oversight;
- Mission/charge;
- Membership—size, compensation and expenses, which types of agencies and officials were represented, terms, and support staff provided to the board; and
- Meetings—frequency of meetings, subcommittees/working groups, standing committees, and other groups that support the boards.

Staff addressed questions and concerns from the Committee on funding for this project and how the other states address funding.

Colonel Chris Stratmann, Chief Information Technology Officer, Kansas Adjutant General's Department, responding to a question from Chairperson Goico, stated the Adjutant

General's intent was to gather information and to find out what other states are doing. He said there is no proposal at present for changing governance in Kansas.

Ensuring Benefits Eligibility for Veterans

Ms. Teemer-Washington provided information on the proof required by the federal government for certain veterans' benefits and the proof required by certain private businesses in Kansas for military discounts ([Attachment 4](#)). The table provided summarizes the proof required to receive one type of benefit from each of three major benefit categories provided by the federal government: disability benefits, home loan benefits, and education benefits. Certain private businesses offer discounts to veterans and military service members. The proof required by private businesses is generally limited to a military or veterans' identification card (ID). Also provided were copies of NGB FORM 22 (blue), which is a state discharge form; the DD Form 214 (purple), which is the federal discharge form; and samples of military identification card types issued to service members, retirees, family members, and civilians. .

Mark E. Schemm, Manager of Titles and Registration, Kansas Department of Revenue, Division of Vehicles, provided information on the qualifications for a Kansas Veteran license plate ([Attachment 5](#)). The Division of Vehicles requires an individual submit the person's DD 214 indicating the applicant was "discharged under honorable conditions" in order to be issued a Veteran license plate, and the individual needs to provide proof only on the initial application for the plate. Active military are required to provide continued eligibility for a veteran license plate. To qualify for the military exemption from vehicle tax of KSA 2014 Supp. 79-5107, the applicant needs to meet requirements set out in the statute. Active military will be required to provide continued eligibility each year to qualify for the tax exemption.

Disabled veterans as defined in KSA 2014 Supp. 8-160 who have served in the Armed Forces of the United States and who are entitled to compensation for a service-connected disability of at least 50 percent by the Veterans Administration may be issued a Disabled Veteran license plate for one vehicle at no charge. All personal property and sales tax apply.

Kent Selk, Drivers Services CDL Manager, Kansas Department of Revenue, Division of Vehicles, provided an update on the driver's license veterans indicator ([Attachment 6](#)). The Veteran indicator is a result of 2014 SB 136, which amended KSA 8-243 and 8-1324 on the required documentation to be able to issue the indicator on driver's licenses and state-issued ID cards. Sample types acceptable service member and veteran ID cards were provided to the Committee members. There are currently 22,473 credentials with the Veteran indicator. In response to a question from a Committee member, Mr. Selk said adding the Veteran indicator to a spouse's driver's license or ID would require legislative action and he would research for further information on the type of documentation that would be required by the spouses, e.g., marriage license, and provide that information to the Committee.

Mr. Selk provided information on the application for military skills test waiver for a commercial driver's license (CDL); the waiver allows the qualified service member to apply for a CDL without skills testing. To qualify, the applicant must have been employed in the most recent 12 months in a military position requiring the operation of a military motor vehicle equivalent to a commercial motor vehicle. The CDL knowledge (written) test cannot be waived. The application needs to be signed by the service member's commanding officer.

Wayne Bollig, Deputy Director for Veteran Services, Kansas Commission on Veterans' Affairs Office (KCVAO), provided information on the proof of military-related benefits. ([Attachment 7](#)) The primary function of the KCVAO to assist in the preparation, presentation, and prosecution of a claim for VA benefits for the veteran, dependents and survivors; KCVAO does not determine benefits. The KCVAO veterans service representatives provide veterans with a number of different services and the law cover numerous and varied veterans' benefits, including pension, insurance, education, compensation, hospitalization, and death benefits plus an array of state benefits. KCVAO feels confident that claims submitted are well-grounded claims for benefits the veteran has earned.

Mr. Bollig noted there is a concern on non-service-connected pension and aid and attendance by a group that promotes "A Little Known Veteran Benefit that Provides Tax-Free Pension," which the U.S. Department of Veterans Affairs terms "The Third-Party Annuity Scam." Veterans and their families are targeted by advisers who are claiming to offer free help with paperwork for pension claims. The scheme involves attorneys, financial planners, and insurance agents trying to persuade veterans over 65 to make decisions about their pensions without giving them the whole truth about the long-term consequences. These companies claim that all veterans are eligible for Aid and Attendance (not true) and promise that their financial product will guarantee a veteran will meet the asset limits for Aid and Attendance (not true). Mr. Bollig said no financial planner should ever speak to an elderly veteran about how to qualify for Aid and Attendance without also cautioning the veteran on how critical it is to make sure that any financial transfers made will not end up making the veteran financially ineligible for Medicaid.

An informational memorandum was provided by KLRD on resources and benefits in Kansas statues for military personnel, veterans, and military families.

Afternoon Session

Utility Security

The Chairperson called the meeting to order at 12:36 p.m. and said the Committee would discuss matters relating to security measures that protect systems, facilities, or equipment used in the production, transmission, or distribution of energy, water, or communications services and involving security measures relating to utilities and Westar Energy, which matters if discussed at an open meeting would jeopardize such security measures.

Senator Petersen moved, and Senator Pettey seconded, this motion: that the open meeting of the Joint Committee on Kansas Security in Room 152-S of the Statehouse be recessed for a closed, executive meeting to commence immediately in Room 152-S of the Statehouse pursuant to subsection (b)(13) of KSA 2015 Supp. 75-4319, for the purpose of discussing matters relating to security measures that protect systems, facilities or equipment used in the production, transmission or distribution of energy, water, or communications services and involving security measures relating to utilities and Westar Energy, which matters, if discussed at an open meeting would jeopardize such security measures, that the Joint Committee on Kansas Security resume the open meeting in this room, Room 152-S of the Statehouse, at 1:00, and that this motion, if adopted, be recorded in the minutes of the Joint Committee on Kansas Security and be maintained as a part of the permanent records of the Committee. Motion carried. This was adopted at 12:40 p.m. on November 5, 2015. Designated

essential personnel were Eric Ervin, Director of Corporate Security, Westar Energy; Bill Glynn, Security Analyst, Westar Energy; Mark Schreiber, Westar Energy; and Jay Emler, Commissioner, Kansas Corporation Commission. Only Committee members and designated personnel were present in the closed session.

At 1:00 p.m., the Committee returned to open meeting status but, since all reports had not been made, Senator Petersen moved, Senator Fitzgerald seconded, the open meeting of the Joint Committee on Kansas Security in Room 152-S of the Statehouse be recessed for a closed, executive meeting to commence immediately in Room 152-S of the Statehouse pursuant to subsection (b)(13) of KSA 2015 Supp. 75-4319, for the purpose of discussing matters relating to security measures that protect systems, facilities or equipment used in the production, transmission or distribution of energy, water, or communications services and involving security measures relating to utilities and Westar Energy, which matters, if discussed at an open meeting would jeopardize such security measures, that the Joint Committee on Kansas Security resume the open meeting in this room, Room 152-S of the Statehouse, at 1:20, and that this motion, if adopted, be recorded in the minutes of the Joint Committee on Kansas Security and be maintained as a part of the permanent records of the Committee. Motion carried. This was adopted at 1:00 p.m. Designated essential personnel were Eric Ervin, Director of Corporate Security, Westar Energy; Bill Glynn, Security Analyst, Westar Energy; Mark Schreiber, Westar Energy; and Commissioner Jay Emler, Kansas Corporation Commission. Only Committee members and designated personnel were present in the executive session.

The Committee returned to open session at 1:20 p.m.

K-12 School Safety

Brad Neuenswander, Deputy Commissioner, Kansas Department of Education (KSDE), updated the Committee on a proposal for a Center for Kansas Safe and Prepared Schools that was submitted to the Governor last year ([Attachment 8](#)). The recommendations are:

- Designate the KSDE as the state agency responsible for coordinating Kansas school safety and preparedness activities. KSDE will incorporate the Kansas Center for Safe and Prepared Schools into that agency, receiving assistance from the Kansas Highway Patrol (KHP), the Kansas Adjutant General's Department, and other state entities as appropriate.
- Program the staff and funding of the Kansas Center for Safe and Prepared Schools into the State General Fund.
- Within the first year, the Kansas Center for Safe and Prepared Schools and appropriate partners would make suggestions to the Governor's Office and Legislature regarding specific Kansas goals, roles, responsibilities and authorities for school safety in Kansas; including those of the KHP, Adjutant General's Department, and other partners. Most important, all state school safety efforts will be unified and targeted to specific and measurable statewide goals.

A proposed program outline by year was provided. Mr. Neuenswander noted that on a typical school day, between 20 percent and 25 percent of the state's population is in a school setting. He also said Kansas schools are not uniformly prepared and there is a lack of clarity for

the governmental role. He reviewed the history of school crisis preparedness activities in Kansas and said the only effort currently active is the KHP's active shooter preparation, even though an all-hazards approach is needed.

The Committee discussed a bill that was introduced in the 2015 session, passed the House and is in a Senate Committee. Staff updated the Committee on 2015 Session bills concerning this topic.

Dale M. Dennis, Deputy Commissioner, KSDE, addressed questions and concerns from the Committee on funding and previous grants.

Utility Security and the Fusion Center

Chairperson Goico said the Committee would discuss matters relating to security measures that protect systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services and involving security measures relating to utilities and the Kansas Intelligence Fusion Center, which matters if discussed at an open meeting would jeopardize such security measures.

Senator Petersen moved, Senator Fitzgerald seconded, the open meeting of the Joint Committee on Kansas Security in Room 152-S of the Statehouse be recessed for a closed, executive meeting to commence immediately in Room 152-S of the Statehouse pursuant to subsection (b)(13) of KSA 2015 Supp. 75-4319, for the purpose of discussing matters relating to security measures that protect systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services and involving security measures relating to utilities and the Kansas Fusion Center, which matters, if discussed at an open meeting would jeopardize such security measures, that the Joint Committee on Kansas Security resume the open meeting in this room, Room 152-S of the Statehouse, at 2:30 p.m. and that this motion, if adopted, be recorded in the minutes of the Joint Committee on Kansas Security and be maintained as a part of the permanent records of the Committee. The motion carried. This was adopted at 1:47 pm on November 5, 2015. Designated essential personnel were Bill Glynn, Security Analyst, Westar Energy, and Jay Emler, Commissioner, Kansas Corporation Commission.

The Committee returned to open session at 2:25 p.m.

A portion of the report on the U.S. Department of Homeland Security Appropriation Bill, 2016, was not considered in open session of the meeting, but was provided to the Committee by Commissioner Emler, Kansas Corporation Commission, for reference ([Attachment 9](#)).

National Bio and Agro-Defense Facility Security

Chairperson Goico said the Committee would discuss matters relating to security measures regarding the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the state of Kansas, or a public body or agency, or private property or persons, if the matter is submitted to the public body or agency for purposes of KSA 2015 Supp. 75-4319(b)(13) and involving security measures relating to the National Bio and Agro-Defense Facility, which matters if discussed at an open meeting would jeopardize such security measures.

Senator Petersen moved, Representative Barton seconded, the open meeting of the Joint Committee on Kansas Security in Room 152-S of the Statehouse be recessed for a closed, executive meeting to commence immediately in Room 152-S of the Statehouse pursuant to Joint Rule 5 of the Joint Rules of the Senate and House of Representatives and subsection (b)(13) of K.S.A. 2015 Supp. 75-4319, for the purpose of discussing security measures or matters relating to the security of state officers or employees, or both, or relating to the security of buildings and property under the ownership or control of the state of Kansas, or a public body or agency, public building or facility or the information system of a public body or agency, or private property or persons, if the matter is submitted to the public body or agency for purposes of KSA 2015 Supp. 75-4319(b)(13) and involving security measures relating to the National Bio and Agro-Defense Facility, which matters if discussed at an open meeting would jeopardize such security measures, that the Joint Committee on Kansas Security resume the open meeting in this room, Room 152-S of the Statehouse, at 3:00 p.m., and that this motion, if adopted, be recorded in the minutes of the Joint Committee on Kansas Security and be maintained as a part of the permanent records of the Committee. This was adopted at 2:27 p.m. on November 5, 2015. Designated essential personnel were Jamie Johnson, Executive Director of the National Bio and Agro-Defense Program Executive Office, Science and Technology Directorate, Department of Homeland Security; Tim Barr; Tim Burke; and Ron Trewyn, Assistant to the President and Liaison to NBAF, Kansas State University (KSU).

The Committee returned to open session at 3:00 p.m.

Kansas State Nuclear Reactor Security

Dr. Jeff Geuther, TRIGAMk-11 Nuclear Reactor Facility Manager, Mechanical and Nuclear Engineering Department, College of Engineering, Kansas State University, updated the Committee on the homeland security in Kansas and possible nuclear threats to the state and facilities ([Attachment 10](#)). He said the Nuclear Regulatory Commission (NRC) uses a graded approach to regulate research reactor security, commensurate with the radiological risk to the public represented by the facility. Due to its low radiological risk, the KSU reactor is considered to only have two credible emergency classes: unusual events and alerts. Security improvements were made after September 11, 2001. The KSU reactor has a high license power level compared to most other research reactors, but by other metrics, such as fuel enrichment and total uranium inventory, would be considered to be of low risk. MOUs are maintained between the reactor facility and outside agencies which may be expected to respond to emergencies. He said in any case involving the possibility of damage to the reactor fuel or dispersion of radioactive isotopes, the reactor exhaust fan and cooling pumps are secured to retain the radioisotopes inside the reactor bay.

Committee Comments and Recommendations

The Committee by consensus recommended the position of lead analyst for power and energy infrastructure be added at the Kansas Intelligence Fusion Center, to focus on physical and cyber threats and risk assessment related to power and energy resources.

Senator Pettey moved to include the recommendation regarding the Kansas Center for Safe and Prepared Schools from the Adjutant General's Department and the Department of Education in the final report. Representative Lusker seconded the motion. The motion carried.

After discussion of the issues and the appropriate committee for further study of them, Senator Petersen moved to request the Veterans, Military and Homeland Security Committee look at financial abuse of elderly veterans during the 2016 Legislative Session. Representative Lusker seconded the motion. The motion carried.

The meeting was adjourned at 3:30 p.m.

Prepared by Connie Burns
Edited by Jill Shelley and
Natalie Teemer-Washington

Approved by the Committee on:

December 21, 2015

(Date)