

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 13, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Office of the Revisor
John Beverlin, Committee Secretary

Conferees appearing before the committee:

Matt All, Chief Counsel, Governor's Office
John McElroy, Executive Director, State Gaming Agency
Joe Odle, State Fire Marshal

Others attending:

See Attached List.

Chairperson Brungardt opened the meeting by welcoming back committee members and staff. The chair acknowledged Senator Lyon for his move to Vice Chairperson of the committee and Senator Gilstrap for his move to Ranking Minority Member. The chair then informed the committee that they will know later on in the week who will be assigned to the committee to replace the recently retired Senator Gooch. The chair then acknowledged that Senator Clark was new to the committee. The chair introduced the new committee secretary John Beverlin. The chair introduced the staff: Theresa Kiernan, Russell Mills, and Dennis Hodgins.

Chairperson Brungardt introduced Matthew All, Chief Counsel to the Governor, to provide testimony over the Final Report of the Governor's Gaming Committee (Attachment 1).

Mr. All stated, upon the completion of his written testimony, that Governor Sebelius's primary focus is developing a large destination casino in Wyandotte County, video machines at race tracks, and machines at fraternal organizations. A gaming board would use criteria in the act to control more expansion on the merits.

At the end of his testimony, Mr. All accepted questions from committee members.

Senator Vratil asked whether the Governor will have a written recommendation within the next few weeks and if she will place that recommendation in bill form.

Mr. All answered yes.

Senator Vratil stated that one of the problems the legislature has faced with regards to gambling proposals in the past, is that those proposals are not placed in bill form. When they are placed in bill form, it is late in the session and not in time for both House and Senate to deal with these proposals.

Mr. All stated that the Governor's office was in the middle of working on a bill, but that there were still some details that needed to be worked out. Mr. All said he could not guarantee those details would be worked out, but that the Governor's office was putting the bill forth and that it should be no later than next week or the week after.

Senator O' Connor asked whether there was any discussion of the fact that other restaurants and businesses go out of business when a destination casino is established in the area. She then explained that restaurants at these casinos often serve excellent food at or below cost. The problem is that neighborhood restaurants cannot compete with that kind of competition.

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Mr. All acknowledged that there was discussion on the topic. He stated that the committee understands that there is a cost associated with the destination casino. He further stated that bringing in a destination casino would bring more money and people into the region and is likely to help those businesses.

Senator O' Connor asked what kind of percentage of money earned at the destination casino would stay in the area, and what part of the dollars would go back to the people who are contracted to provide the casino entertainment.

Mr. All stated that it is the hope of the office of the Governor that the vast majority of the monies would stay in the region. He stated that the governor would have control over who has the contracts and that the Governor would probably keep the money in the region. Mr. All further stated that the point is not to provide gaming for gaming's sake but to develop the communities and to bring jobs into the communities. He further stated that they believe, if done right, the destination casino could be beneficial for Wyandotte County.

Senator O' Connor asked if there had been discussion about placing video gaming in convenience stores.

Mr. All answered by stating that no, it was not something that the committee thought was a good idea. He said the committee thought that video gaming in convenience stores was clearly convenience gaming. He explained that fraternal organizations could use the machines to do a lot of good work throughout the state. He further explained that the committee concluded that gaming at convenience stores would only be gaming for gaming's sake. He explained that such gaming would not bring people or jobs to the state.

Senator O' Connor stated that if the Governor is looking for gaming as a source of revenue, video gaming would bring in three times as much as any destination casino. She further stated that a destination casino is going to take a year to three years before it starts to become a benefit for the state.

Senator O' Connor asked that if the goal of the Governor is to get revenue and quickly, why is the state not going in the direction of video gaming.

Mr. All stated that quick revenue was a reason, but not the only reason.

Senator O' Connor asked if Mr. All agreed that video gaming in convenience stores is where the quick and large revenue is located.

Mr. All responded by saying he does not necessarily agree with her statement. He said that he disagrees with Senator O' Connor's premise for the question. He said he has seen various studies about the monies that video gambling in convenience stores would bring. He then stated, that the committee does not know if that is really the case.

Senator Gilstrap asked if there was any knowledge of how much money, due to gambling, was going from the Kansas side over to the Missouri side.

Mr. All stated that the committee heard testimony, but that he did not think there was a scientific study. He further stated that the committee heard that as much as 30 to 40 percent of the patrons at Kansas City casinos come from the Kansas side of the line.

Senator Gilstrap said he understood that some of the money that goes to Missouri might go into funding the education in Missouri. He stated that with as much problem as we have funding education in Kansas, we are funding education in Missouri.

Mr. All answered that Senator Gilstrap was correct.

Senator Teichman asked what the committee's opinion was concerning other destination casinos in Kansas.

Mr. All responded by saying that the committee was open-minded and so was the Governor about having additional venues in Kansas. He stated that the committee concluded that a destination casino in Wyandotte

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County was the best location in Kansas to start with casinos in Kansas. In reference to the other locations for casinos, Mr. All stated that the committee and the Governor would say as long as those proposals were geared to be destination casinos, it may be something the state should look into.

Dennis Hodgins asked if there was discussion about how the destination casinos would effect the lottery in Kansas.

Mr. All answered by saying that there is likely to be some trade-off, but that overall there would be far more revenue generated if there was expanded gaming in Kansas.

Senator Lyon asked Mr. All what he saw as being new in the committee's findings or the proposal.

Mr. All answered by saying that the idea of having a board that would provide criteria to ensure that any expanded gaming in Kansas would be done in a responsible way and in a way that would make sense for the community and Kansas as a whole; this board is something in his limited experience that he thought was new.

Senator Lyon asked if it was okay to assume that the proposal would be for a state owned and operated casino.

Mr. All answered by saying that the proposal is for casinos to be state owned and operated. He stated, however, they are in discussion with various tribes that are interested and that the committee believes that there is room for both.

Senator Lyon stated that he is interested in knowing what the committee's views are in regards to what state owned and operated means.

Mr. All responded by saying that the committee does not know exactly how "state owned and operated" is defined. He stated that the Supreme Court would provide a definition. Mr. All then stated that in general it is important for the state to retain control of the gaming operation, but does not need to own the real-estate or the equipment.

Chairperson Brungardt thanked Mr. All and recognized and thanked Tom Wright, Chairperson of the Governor's Gaming Committee.

Chairperson Brungardt asked Mr. Wright if there was anything that he would like to add to Mr. All's testimony.

Mr. Wright responded no.

Chairperson Brungardt introduced John McElroy, Executive Director of the Kansas State Gaming Agency.

Mr. McElroy provided an agency overview of the Kansas State Gaming Agency (Attachment 2).

Chairperson Brungardt asked the committee members whether they had any questions for Mr. McElroy

Senator Lyon asked Mr. McElroy that if the state got involved in state owned and operated casinos, would he anticipate being approached for input.

Mr. McElroy stated that he does not have any idea and that it is not in his jurisdiction.

Chairperson Brungardt thanked Mr. McElroy and then welcomed John Odle, State Fire Marshal.

Mr. Odle stated that the agency of Kansas State Fire Marshal is set to release its year end report at the beginning of February. He stated that the overview he handed out today was a description of the state agency (Attachment 3).

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Mr. Odle described the agency as being divided into four departments with two or three divisions in each. He then went on to say that the main departments are investigation, inspections, hazardous material and juvenile.

Mr. Odle stated that the reason for the juvenile department is due to the rise in fires set by juveniles.

Mr. Odle stopped from his testimony to introduce his two Chief Deputies whom, he stated, are responsible for tracking any fire related legislation in the legislature this year. The Chief Deputies introduced by Mr. Odle were, Dan McLaughlin, head of the inspection division; and Karl McNorton, head of the investigation division.

Chairperson Brungardt asked the committee members if they had any questions for Mr. Odle

Senator O' Connor asked whether the increase in fires set by juveniles would be addressed

Mr. Odle responded by stating that would be released along with statistics in the yearly report. He further stated that of 20,000 fire incidents in 2002, 30 to 40 percent were started by juveniles. He stated further that 10 percent were arson fires, which was an increase of about 46 percent over the year 2001.

Senator O' Connor stated that she was curious why there was an increase in teenagers that started fires.

Mr. Odle explained that it is not so much the increase, but the fact that fires set by juveniles had never been addressed by most states. He further explained that the National Fire Marshal Conference did initiate a juvenile program in Kansas and three other states. Mr. Odle explained that Kansas is a pilot project. If the program is successful here, it will be implemented it in other states.

Chairperson Brungardt asked whether the program was preventive or if it identified those committing juvenile arson.

Mr. Odle explained that currently it is a preventive program. He explained that as time goes on, if the program is successful, the program could be expanded.

Senator Barnett asked if Kansas could escape the tragedy of 97 fatalities at the night club in Rhode Island, and asked how Kansas has protected itself against such a tragedy.

Mr. Odle explained that Kansas has been lucky. He explained that many clubs in Kansas have the same problems as the Rhode Island night club. Mr. Odle explained the only time the Fire Marshal inspects a place such as a night club, is when a complaint on the establishment is received. He stated that there are establishments located in the rural parts of Kansas that the Fire Marshal, does not know exist. Mr. Odle explained that many counties do not require these establishments be built according to fire code.

Senator Barnett stated that during the previous year, in the senate, the committee viewed legislation that looked at sprinkler systems for facilities, such as night clubs, that under current law would not be required to have sprinkler systems, for pyro-technic purposes. He asked whether or not the office of the Fire Marshal was going to revisit that issue this year.

Mr. Odle answered by stating that currently, there would be no way of enforcing that bill in the state of Kansas. He explained that facilities where older people and minors congregate need to meet certain rules pertaining to fire rating. He further explained that new facilities such as these have to be built with sprinkler systems.

Senator Clark asked Mr. Odle to highlight some of the details of the proposed legislative package.

Mr. Odle stated that the plan is to bring in legislation to be in line with ATF standards regulating the handling and storage of explosives. He stated that the same stands with regards to fireworks. Mr. Odle stated that the agency has always allowed class C fireworks in Kansas for storage and sale. He explained that class C

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fireworks are now built almost as powerful as class B fireworks.

Mr. Odle stated the agencies plan to pull **SB 42**. He also stated the plan to offer extension to **SB 41**. He explained that **SB 41** allows the adoption of 2003 international fire codes.

Chairperson Brungardt asked for additional questions

Senator Teichman stated that the rural drinking establishment that the Fire Marshal is unaware of, must be licensed for the sale of alcohol. Senator Teichman asked whether there was cooperation between the Fire Marshal and the liquor licensing agency.

Mr. Odle explained that the resources are not available to inspect facilities such as these on a regular basis.

Senator Teichman asked whether these rural facilities needed to be inspected on an annual basis.

Mr. Odle answered with no, that state statutes require that they inspect educational facilities, healthcare facilities and correctional facilities. He explained that the only times these rural facilities receive fire inspection is upon a complaint about the facility.

Chairperson Brungardt thanked Mr. Odle and brought an end to the meeting.

The meeting was adjourned at 11:25 a. m. The next meeting will be held at 10:30 a.m. January 14, 2004 in room 231-N

Senate Federal and State Affairs Committee

Date: 01/12/2009

Name:

Representing:

John McElroy

KSGA

MATT ALL

Gov's office

Ron Hein

Hein Law Firm

Megan Dunn

" " "

Sean Stephens

Dept of Commerce T&T

Scott Rothschild

Lumina Journal-World

DARON LOOMIS

Gov's OFFICE

Alissa Rowinsky

Governor's Office

Stephanie Buchanan

DOB

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President's office

John d. Pinegar

Burke National Corporation

John Federico

Federico Consulting

Tom Wright

Citizen

Whitney Damon

Kickapoo Tribe / Sac: Top Nation

Senate Federal and State Affairs Committee

Date: 01/13/2004

Name:

Representing:

Ric Anderson

Topeka Cap-Social

Phil BRADLEY

KLBA

Tom Bruce

GBBA

Larry Waldrop

River Falls Entertainment

Keith Kober

KS Lottery

Ed Van Petten

KS Lottery



KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony on the Final Report of the Governor's Gaming Committee

MATTHEW D. ALL
Chief Counsel to the Governor

Before the SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
Tuesday, January 13, 2004

Mister Chairman and Members of the Committee:

Thank you for inviting me to speak today about the Final Report of the Governor's Gaming Committee. The Governor created the Committee last summer to review the possibilities for gaming in Kansas and to recommend how it should be expanded. It was composed of fifteen citizens, none of whom had direct ties with the gaming industry. Tom Wright, a distinguished local attorney, served as its chairman.

The Committee conducted eight public meetings, heard over 30 hours of testimony, and reviewed hundreds of pages of documents. It heard from both proponents and opponents of gaming in Kansas, and received analyses from legal counsel, legislators, and other professionals from both state government and the private sector. The Committee's work was exhaustive.

On December 18, 2003, based on this work, the Committee produced its Final Report. This report is split into two major sections: one with background on the gaming issue and the information the Committee received; and another with the Committee's findings and recommendations. I would be happy to review these findings and recommendations in as much detail as you would like this morning. In short, the Committee's findings were as follows:

- The state should expand gaming. Although gaming has some costs, its benefits—including economic vitality, jobs, expanded entertainment options, increased tourism, and revenue to the state government—outweigh and counteract those costs.
- The state should expand gaming in the form of a large destination casino that would attract tourists from outside the immediate region. The best

location for this sort of casino is in Wyandotte County—specifically near the Village West area and the Kansas Speedway.

- Under current law, the casino must be either state-owned and operated or an Indian casino. Private casinos are illegal under the Kansas Constitution.
- The parimutuel tracks present the state with an opportunity to reap significant revenues quickly by placing and operating video lottery terminals there.
- Although Kansas can support more than one destination casino, the state should allow multiple casinos—either Kansas City or elsewhere in the state—only under limited, controlled circumstances.
- Any expansion of gaming should be subject to local and countywide approval.

From these findings, the Committee recommended the following approach:

- **A large destination casino—either state-owned and operated or Indian—in Wyandotte County.** The state could place video lottery terminals at parimutuel tracks to supplement this proposal and provide the state with significant revenue quickly.
- **Limited additional gaming venues, both in Wyandotte County and elsewhere in Kansas.** This could be achieved by establishing a gaming board to review proposals for expanded gaming to ensure that these proposals are high quality tourist destinations.
- **Video lottery at fraternal organizations.** The state should own, place, operate, and closely oversee these terminals and their use.

The Governor has reviewed these findings and recommendations and is developing her own proposal, which she will unveil in the next few weeks. The proposal will be largely consistent with the Committee's Final Report.

I would be happy to answer any questions, either about the Final Report or the Governor's proposal.

Testimony Before the Senate Committee on Federal and State Affairs

John E. McElroy, JD, CFE
Executive Director
Kansas State Gaming Agency
January 13, 2004

It is my pleasure to appear today before the Senate Committee on Federal and State Affairs to provide information about the Kansas State Gaming Agency. In Kansas, the Iowa Tribe of Kansas and Nebraska, the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe, and the Sac and Fox Nation of Missouri in Kansas and Nebraska each have a reservation and a casino. Each casino operates through the terms of a Tribal State Compact.

KSA 74-9805 limits the jurisdiction of the Agency to oversight and investigations concerning tribal gaming operations in Kansas carried out in connection with Tribal State Compacts. Specifically, the Agency is charged with monitoring gaming activities at the casinos and doing background investigations of vendors who do significant business with casinos, gaming personnel and tribal gaming inspectors. Licensing is done by the individual Tribal Gaming Commissions who are also designated in the Compacts as the primary regulators. The Agency has no jurisdiction over any other type of gaming, legal or illegal.

The Agency was officially designated a part of the Kansas Racing and Gaming Commission in the Tribal Gaming Oversight Act, KSA 74-9801 et seq, in 1996. The Commission approves the Agency's budget, the number and qualifications of its employees and any expenditures for arbitration. All other management functions are left to the executive director and his designees. Until April, 2003, the executive director also had the role of executive director of the Kansas Racing Commission. I have been the full time executive director of the Agency since April, 2003.

The Agency has three management/ supervisory personnel, three support personnel, six special investigators and nine enforcement agents. Special investigators are assigned to do Category II background investigations exclusively. Corporate and Category I background

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Attachment: # 2

investigations are done by enforcement agents. Enforcement agents are sworn law enforcement officers. Enforcement agents are also responsible for monitoring gaming activity at the casinos. The Agency operates 11 vehicles.

The Agency is entirely funded by contributions from the four recognized Kansas tribes. The Agency budget for FY 2004 is \$1,562,688. Each Tribe receives a notice of assessment from the Agency by July 31 of each year. Any funds left over from the previous fiscal year are credited to the next year's tribal assessments before the notice is sent. Tribes must pay their assessments on or before September 21, January 1, and April 1. All of the Tribes are current in paying their assessments. The Tribes pay no other funds to the State.

State general funds are only used in the case of an arbitration award if the State is ordered to pay any of the costs of arbitration. During 2003, one arbitration, which ended in a redistribution of assessments for investigative costs, resulted in a general fund expense of \$2900. Another arbitration request made by a Tribe has been withdrawn. A third arbitration request, this one by the Agency, is currently still being negotiated.

The Agency is housed on the second floor of 701 SW Jackson, Topeka, KS. During the summer of 2003, the Agency installed a server based computer network with high speed internet access. This purchase has increased the efficiency of the Agency and now permits data files to be backed up every evening and prevents loss of data due to power failure.

The Agency has investigated several criminal cases in 2003. One case involves an employee who possessed unauthorized computer files from a previous gaming employer. Another involved the theft of an empty cash container allegedly by a patron. In one case a patron attempted to use counterfeit bills in a slot machine. The final case involved two out of state patrons who are alleged to have attempted to cheat a slot machine. In each of these cases, at least one person was apprehended and charged. Another case involving false statements is awaiting a decision by the Attorney General. Only the counterfeit money case has been concluded.

I am unable to discuss with you any particular information in regard to any particular casino. KSA 45-221 (42) prohibits disclosure of records when disclosure is prohibited by a Tribal State Compact. All Tribal State

Compacts clearly call attention to the confidential and proprietary nature of information provided to the Agency by the Tribes to permit the Agency to carry out its mission.

I am pleased to stand for questions. I can be reached by telephone at 368-6202 or by email at john.mcelroy@ksgaming.org.



K A N S A S

JOSEPH P. ODLE
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Message from State Fire Marshal Joseph Odle

Fire is one of the most beneficial – yet destructive – forces in nature. With fire we heat our homes and cook our dinner. The act of combustion allows cars to run and generators to create electricity. Even the burning of rangeland is vital to the farming and ranching industries. Yet once fire gets out of control, the worst happens. Homes are damaged. Lives are lost. The impact of a single fire resonates through the entire community.

This past year has seen disturbing national headlines, from devastating wildfires in California to the horrifying reality of 97 fatalities in a Rhode Island nightclub fire.

The results of destructive fire are tragic. But not every fire that breaks out needs to become destructive.

Many fires can be prevented, even fires that are deliberately set. The spread of fire through a building can be held in check by specific construction techniques. Sprinklers and suppression systems can extinguish a fire before it grows. Fire alarms and smoke detectors can warn occupants of a burgeoning fire, allowing them to escape and call for help. I am convinced that past diligence in these areas has allowed Kansas to escape the tragedy so recently felt by the citizens of Rhode Island.

However, these efforts to prevent, protect, and educate Kansans must not falter.

As the State Fire Marshal, it is my great privilege to lead Kansas in the attack against fire and its tragic consequences. My office and staff are focused on preventing fire and fire spread, supporting the firefighters who respond to fire emergencies, and investigating fires to aid prevention efforts and to prosecute arsonists.

The safety of Kansans is our first and foremost priority.

Joseph P. Odle
Kansas State Fire Marshal

Senate Federal and State Affairs Com. r

Date: JANUARY 13, 2004

Attachment: # 3

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 6661

Voice 785-296-3401 Fax 785-296-0151 www.accesskansas

The Kansas State Fire Marshal's Office

The Kansas State Fire Marshal's Office was created to safeguard the lives and property of Kansans from the hazards of fire and explosion. Since its establishment in 1913, the Office of the State Fire Marshal has constantly adapted itself to attack the changing face of Kansas' fire problem.

The Office of the State Fire Marshal is organized into four divisions: Hazardous Materials, Investigation, Prevention, and Youth Programs. Each division focuses on a specific aspect of fire loss. The Prevention and Youth Programs Divisions work to prevent accidental and deliberate fires from beginning. Hazardous Materials focuses on the actual response to emergencies by training and supporting response teams throughout the state. The Investigations Division delves into the origin and cause of fires, to aid in the prosecution of arsonists and to seek out new or unknown fire hazards. The units under these divisions include plans review, licensing, enforcement, fireworks and explosives, information technology, and a video lending library.

The Kansas State Fire Marshal's Office maintains a comprehensive library of training, safety, and educational videos. These videos are available to fire departments and other organizations at no cost. Many departments use videos for required training, especially during the winter months when freezing temperatures and the threat of ice and exposure make outdoor training impractical and hazardous. The use of videos for training also allows training for specialized skills that might otherwise be financially prohibitive. The capability to borrow these videos eases the financial burden of mandatory training for firefighters.

The office also maintains the Kansas Fire Incident Reporting System (KFIRS). This is a state-wide data collection system for fire and emergency incidents. After a fire department responds to an emergency scene, a KFIRS report is submitted to the State Fire Marshal's Office. These reports are then submitted to the National Fire Incident Reporting System (NFIRS). KFIRS reports include information on incident type, responding personnel, equipment and resources used, and firefighter injuries or fatalities.

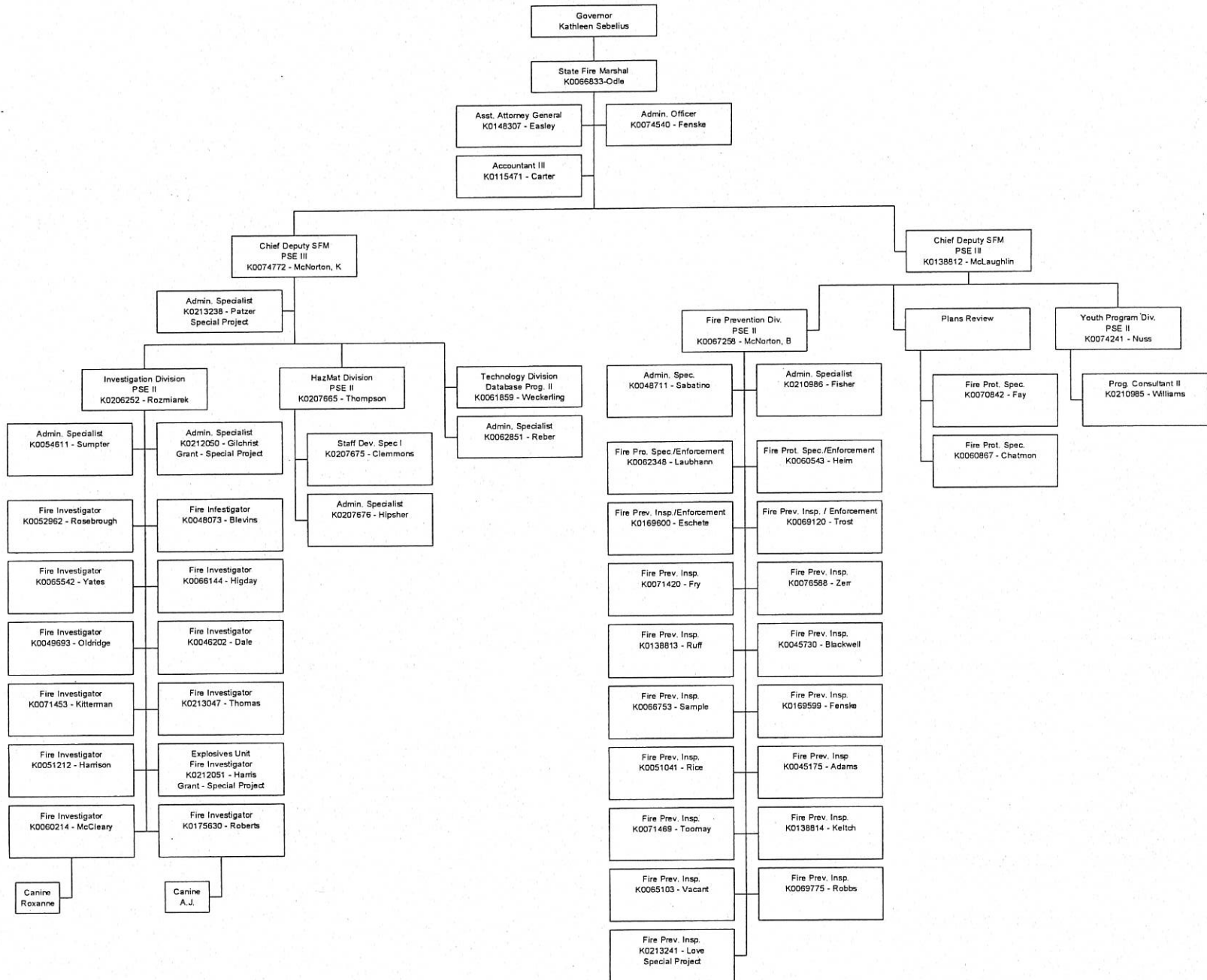
The Kansas State Fire Marshal's Office also maintains two other databases: the Kansas Burn Injury Reporting System and the Kansas Insurance Loss Reporting System. Hospitals across Kansas are required to submit notification to the office of the State Fire Marshal when patients have received burns over 20% of their entire body. This information aids in fire prevention and investigation. Insurance companies are required to submit a report for every insurance loss over \$500 due to fire. This database helps reveal the scope of economic loss due to fire within the state of Kansas.

By attacking fire before it starts, by bolstering emergency response to fires in progress, by collecting information and data on how fire is affecting Kansas, and by seeking out the causes of fires already extinguished, the Office of the State Fire Marshal is able to reduce the severity of fire's impact on the State of Kansas.

Effective: 9/15/2003

KANSAS STATE FIRE MARSHAL

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Kansas State Fire Marshal – 700 SW Jackson, Ste. 600
Main Phone – 785-296-3401 FAX – 785-296-0151
Joe Odle, Kansas State Fire Marshal

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McCleary, Mark – 785-296-8984
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Rozmiarek, Rose – 785-296-4199
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Thomas, Nancy - 785-296-8984
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Fay, Rick – 785-296-0659

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Blackwell, Lyndon – 785-291-3428
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Fenske, Stephen – 785-296-4451
Fisher, Mary – 785-291-3428
Fry, Carole – 785-296-4451
Heim, Mike – 785-296-0661
Keltch, Tom – 785-296-4451
Laubhan, Larry – 785-296-6472
Love, Brian – 785-296-4451
McNorton, Brenda – 785-296-0656
Ratz, Diana – 785-296-4451
Rice, Don – 785-291-3428
Robbs, Jesse – 785-296-4451
Ruff, Sarah – 785-291-3428
Sample, Roger – 785-296-4451
Toomay, Zeth – 785-296-4451
Trost, Matt – 785-291-3958
Zerr, Steve – 785-291-3428

Youth Programs

Nuss, Elena – 785-296-3403
Williams, Rosie – 785-296-8606

The Kansas Fire Problem

Fire continues to heavily impact the state of Kansas.

Kansas fire departments reported a total of 19,709 fires during 2002, an increase of 22% over 2001. This fluctuation, caused primarily by an increase in grass fires from a drier spring, summer, and fall, also brought an increase in the total Kansas property loss. This loss rose from \$56.9 million dollars in 2001 to \$82.0 million dollars in 2002, an increase of 46%. Forty-two civilians died in 2002, and another 226 were injured. Of the residential fires in which the working status of smoke detectors could be determined, 72% of the deaths occurred in properties without working smoke detectors. Only 28% of the fire fatalities happened in residential properties where the smoke detector was functioning. One firefighter died and 236 were injured battling fire.

Arson is currently the third largest cause of fire in Kansas, consistently comprising just under 15% of all Kansas fires. Only open flames and electrical fires surpassed arson as the leading causes of fire in Kansas. During 2002 approximately \$5.8 million dollars in property loss were caused by the 1,823 confirmed arson fires. Intentional fires also claimed the life of one person and another 42 were injured. Across the nation, 25 cents for every dollar paid on fire insurance premiums goes to cover the cost of arson.

Although numbers and data portray startling facts about the large losses incurred from fire, the total impact to lives and communities can never be confined to a statistic. Almost half of all businesses that suffer a fire never reopen. Tax revenues are lost, buying power is reduced, insurance rates increase, and neighborhoods crumble. The total economic impact of fire is estimated to be between four and five times the amount of total property damage in any single fire. The emotional impact of fire can never be measured.

Unfortunately, the threat of fire can never be eradicated. The only defense against this unpredictable menace is to protect people from the effects of fire, prevent fire from breaking out and to educate citizens.

PREVENTION

The Prevention Division is the first line of defense against fire loss. Through the oversight of building construction, design, suppression systems, and facility use, fires can be confined, extinguished, and prevented.

The Kansas State Fire Marshal is responsible for the fire and life safety wherever people work, live, and congregate, with the exception of one- and two-family dwellings. The Fire Prevention Division focuses on facilities posing distinct fire hazards and those places where the potential loss of life from fire is very high, including structures where the very

young and very old live and congregate. We inspect preschools, child care centers, foster care, schools, colleges, universities, prisons, jails, residential board and care homes, hospitals, and nursing homes, as well as above-ground fuel storage and liquid petroleum gas facilities.

The inspectors educate facility owners and occupants on distinctly hazardous conditions – i.e. storage of flammable or combustible materials, blocked exit paths, or other obstacles – which contribute to fire spread or entrap building occupants. During 2003, members of the Prevention Division gave numerous presentations and seminars to facility owners, managers, and people able to actively promote fire prevention in their workplaces.

The Prevention Division has 19 state and nationally certified Fire Prevention Inspectors. Of these 19 individuals, six are certified Fire Protection Specialists, one is a Fire Protection Engineer and one is a licensed architect. Fourteen inspectors are stationed across the state and travel a cumulative 260,000 miles each year to perform their duties. These individuals are responsible for all inspections and plans review, providing technical code expertise, and educating the regulated community.

All Fire Prevention Inspectors in this office are also certified through the Center for Medicare/Medicaid Service (CMS) to perform federal life safety inspections. The Prevention Division is contracted through the Kansas Department of Aging and the Kansas Department of Health and Environment to conduct annual surveys on every health care facility within Kansas that receives federal Medicare or Medicaid funds. Routine state inspections are also conducted annually on every health care facility. As of June 30, 2002, 345 nursing facilities and more than 7,000 health/hospital facilities were operating within Kansas, with a total occupancy of more than 35,800 residents

Every educational institution is inspected annually by the Fire Prevention Division. For the 2002-2003 school year, each of Kansas' 1,418 elementary, middle, and high schools were inspected, with enrollments in these schools topping 467,300. A total of 64 college and university campuses were also inspected.

The Fire Prevention Division works with the Kansas Department of Health and Environment and the Bureau of Consumer Health to perform inspections of day care facilities that require licensing. During 2002, there were 6,676 licensed home daycare facilities, 354 preschools and head start programs, and 667 daycare centers across Kansas.

Every correctional facility, juvenile correctional facility, and county jail within Kansas receives an annual inspection. During the past year, all eight correctional facilities, 30 juvenile correctional facilities, and 181 county jails were inspected.

This division is also responsible for licensing the companies that service and inspect portable fire extinguishers and fixed suppression systems in kitchen applications. For 2004, 66 licenses were issued to companies servicing extinguishers and kitchen

suppression systems for profit, 22 licenses were issued to companies in order to service their own portable fire extinguishers, and 37 licenses were issued to government entities servicing their own portable fire extinguishers.

Through reviewing construction plans before facilities are built, by conducting inspections in facilities where the loss of life could be severe, and by assuring that high-risk facilities have appropriate fire suppression systems, the Fire Prevention Division is able to locate dangerous situations before tragedy strikes.

YOUTH PROGRAMS

The Youth Programs Division of the State Fire Marshal's Office approaches fire prevention from a different direction – by preventing fires intentionally and accidentally started by children.

According to FBI crime statistics, 54% of all arson fires are set by juveniles. In Kansas, during 2002, 312 fires were identified as having been started by children. These fires alone caused the deaths of two children and injuries to 13 children and four firefighters. These fires also caused \$2.1 million dollars in damage. Other statistics show that more than half of all fires started by children go unreported.

National research estimates that over half of all children light at least one fire before the age of 13. In Kansas, nearly 400,000 children are between the ages of 5 and 14. If this national research is accurate, the potential exists for almost 200,000 fires within Kansas to be started by children. These fires may be small, incidental, and unnoticed by supervising adults. However, every fire has the potential to grow out of control, damaging property and endangering lives regardless of its initial size. The size of the problem cannot be measured by the size of the fire.

The Youth Programs Division has followed a community-based fire prevention model. Each county or area defines their child-set fire problem and develops a mission statement with short- and long-range goals to address the problem. Multi-disciplinary coalitions are established to work with fire setters and their families in the local communities. These can be new or existing coalitions. Y-FIRE (Youth – Firesafety, Intervention, Resources and Education) Coalitions are the state program model, although flexible program options exist to adapt to local needs.

To be successful these coalitions need to involve at least five core areas: fire service, law enforcement, juvenile justice, social services and mental health care providers. Other partners can include court services, district attorneys, child welfare, health care providers, educators, and insurance industry professionals.

In 2002, Kansas was one of four states chosen by the National Association of State Fire Marshals (NASFM) to receive specialized training workshops to assist Kansas

communities in developing local youth fire setter intervention coalitions. In December of 2003, NASFM chose Kansas as the only state to receive advanced training for coalition partners. This was funded by the Office of Juvenile Justice and Delinquency Prevention.

The Youth Programs Division is also working with NASFM to improve data collection of youth-set fires. Through technology provided by NASFM, the coalitions supported through the Kansas State Fire Marshal's Office collect and submit additional information. This allows policy makers, funding agents, social service and public safety agencies direct resources to child fire setters and their families more efficiently.

Intervention with children who have already started fires is not the only focus of the Youth Programs Division. Teaching children the dangers of playing with fire is also an important aspect of prevention. The Division works cooperatively with other organizations to sponsor statewide training seminars and program exhibits on various fire safety, burn injury and arson awareness issues. During 2002, 25 training opportunities were realized. Training is provided in the following areas: Y-FIRE Program Development and Coalition Building, Characteristics and Profiles of Youth Fire Setters, Risk Watch® Injury Prevention Curriculum, Learn Not to Burn©, Community Awareness Presentations, and Train-the-Trainer Seminars. Both Risk Watch® and Learn Not to Burn© are prevention curricula developed for classroom instruction.

The Youth Programs Division functions as a clearinghouse for the latest literature and program materials related to youth fire setter prevention and intervention. A Resource Lending Library allows local communities to access materials without impacting their own limited budgets. During 2002, a total of 310 requests for services, data, information, and curriculum packages were provided to organizations across Kansas.

Together with community and state leaders, the Youth Programs Division works to lessen the impact of fires in Kansas by preventing deliberate and accidental fires started by children and working to rehabilitate known juvenile fire setters.

INVESTIGATIONS

The Investigation Division of the Kansas State Fire Marshal's Office is responsible for assisting in the prosecution and conviction of arsonists, determining fire origin and cause at the request of local jurisdictions, licensing the use and storage of fireworks and explosives, and responding with accelerant and explosive canine assistance across Kansas.

Investigating and determining the origin and cause of fires plays an important role in preventing fires. The analysis of how a fire started provides building blocks for improved prevention of these incidents in the future. One of the more visible successes of the relationship between investigation and prevention came shortly after *Mr. Coffee Pot* coffee makers arrived on store shelves. Manufacturing and design flaws present in

the initial product caused a substantial number of structure fires, many of them residential. Between evidence found at the scenes and excellent investigative work, the manufacturer was convinced to change the faulty design, eliminating the risk of accidental fires.

Fire and explosive investigations are not simple matters. First, the investigator must determine the origin and cause of the fire or explosion. If the incident was deliberately started, a thorough criminal investigation follows. The investigator handles every aspect of the case, from determining what caused the fire or explosion to apprehending the perpetrator if the fire is ruled arson. The investigation cannot be haphazard. The investigators require a high degree of training, current up-to-date techniques and skills, and they adhere to professional standard protocols and procedures. They must study, understand, and apply sound scientific analysis of many factors that influence fire behavior and progression. Therefore, the investigators qualify and become certified as expert witnesses in the court system. The investigators in the State Fire Marshal's Office support an impressive conviction rate of 15%, well above the national average of 3%.

Every investigator within the State Fire Marshal's Office holds state certification as law enforcement officers and fire investigators. The twelve investigators, chief investigator and two administrative specialists comprising the Investigation Division hold a cumulative 315 years of experience in fire, explosive, and law enforcement investigations. One member of the division holds a masters degree and three have bachelor degrees. Three investigators are internationally certified fire investigators and two are nationally certified fire and explosive investigators. One investigator is a federally certified bomb technician, two are nationally certified hazardous materials technicians, one is a certified polygraph examiner, and four are certified for clandestine lab response. Two investigators are federally certified canine handlers and several investigators are members of local major case squads. Three members of the Investigation Division are certified National Crime Information Center (NCIC) terminal users, and three investigators have received the distinguished National Fire Investigator of the Year award.

Members of the Investigation Division also hold positions on the International Association of Arson Investigators (Kansas Chapter) Board of Directors, the programs subcommittee of the International Association of Arson Investigators, the International Association of Bomb Technicians, and the Kansas Committee for Arson Prevention Board of Directors.

During FY 2003, the members of the Investigation Division logged 1683.5 hours of training. In addition to receiving training, members of the Investigation Division also provided training to agencies, professional organizations, law enforcement agencies, fire departments, and private industries. During FY 2003, almost 200 hours of training were provided to law enforcement agencies and fire departments by our agency and another 192 hours were made possible through grant funding. Sixteen hours of instruction were also given to the private explosive industry. During FY 2003, over 240,000 cumulative

miles were driven by investigators within the State Fire Marshal's Office. A total of 356 fires were investigated during 2003.

The Investigation Division also houses explosives licensing and investigation. The Office of the State Fire Marshal is responsible for licensing fireworks operators, blasting permits, explosives users and explosives storage. The explosives investigator conducts site inspections and civil and criminal investigations initiated by complaints. During the first three quarters of 2003, the investigator responded to 14 incidents in which explosive material had to be destroyed or rendered safe.

The division maintains investigative files and databases for investigations and explosive/fireworks licensing. Files and databases are also maintained for Fire Investigator I and II certification, which is offered through the Investigation Division. This certification is available to members of local fire departments, allowing them to function with law enforcement authority when conducting a fire investigation. The office utilizes the NCIC system for criminal investigations as well as background checks on all explosive and firework applications. The Kansas State Fire Marshal's Office works with the Bureau of Alcohol, Tobacco, and firearms (ATF) and the Federal Bureau of Investigations (FBI) on investigations, licensing, and data sharing.

The Investigation Division is the recipient of two canines provided and trained by the ATF. The accelerant detection canine team responded to 47 calls for assistance in 2002. Of those requests for assistance, three were from the ATF. The explosive detection canine team returned from their initial certification training in mid-November and has responded to one call for assistance.

The Investigation Division is able to provide unique response to fire departments and law enforcement agencies across the state. Through highly trained staff, accelerant and explosive canines, access to the NCIC system and cooperation with the ATF and FBI, the Investigation Division is able to aid in the determination of fire origin and cause and the prosecution of arsonists and explosive violators.

HAZARDOUS MATERIALS

The Hazardous Materials Division of the State Fire Marshal's office was developed in 1999 to enhance the safety of Kansans by making trained, equipped hazardous materials teams available throughout the state. These teams support local first responders in hazardous materials incidents and acts of terrorism.

The hazardous materials teams exist through contracts between individual local fire departments and the State Fire Marshal's Office. The fire departments agree to provide team members and regional response outside their local jurisdiction and the State Fire Marshal's Office provides training and equipment at no cost to the department and reimburses all costs associated with the actual hazardous materials team response.

All teams supported through the Hazardous Materials Division are either Regional Response Teams (RRT) or Chemical Assessment Teams (CAT). A Regional Response Team consists of a minimum of six nationally accredited hazardous materials technicians. The RRT is fully equipped to enter the area immediately surrounding the hazardous material in order to monitor the environment and mitigate the incident. A Chemical Assessment Team requires only two to four technicians and is equipped to assist the local jurisdiction with the initial isolation of the hazardous material. Any two CAT's are able to combine and function as an RRT.

Currently, a total of eight hazardous materials teams are supported by the Hazardous Materials Division. Contracts have been signed with fire departments in Colby (CAT), Emporia (CAT), Ford County (CAT), Hays (RRT), Sedgwick County (RRT), Seward County (CAT), Topeka (RRT), and Wellington (CAT). Team applications are currently under consideration with the Salina and Manhattan fire departments, and possible future response team locations include Leavenworth, Iola, Chanute, Pittsburg, or Parsons. A total of 14 teams are anticipated when the hazardous materials response network is completed.

The Hazardous Materials Division also offers training for first responders to reduce the number of accidents, injuries, illnesses and fatalities often present during response to hazardous materials incidents. This training conforms to the standards and levels described in 29 CFR 1910.120 and NFPA 472.

Currently, three different levels of training are offered. *Hazardous Materials Awareness*, an 8-hour course, is designed for first responders who, in the course of their normal duties, could be first on the scene of a hazardous materials emergency. Students are taught to recognize the presence of hazardous materials and to protect themselves, secure the scene, and call for trained personnel to respond. The 24-hour *Hazardous Materials Operations* class is aimed at teaching first responders to respond defensively to hazardous materials emergencies. Students are taught to control the release from a safe distance and to keep the release from spreading. *Hazardous Materials Technician* is a 120-hour course that teaches responders to aggressively and offensively control releases of hazardous materials. Students are taught to safely approach the point of release in order to plug, patch, or stop the release. They are also taught to use specialized chemical protective clothing and environmental monitoring equipment, as well as the methods of recognizing and testing for potential hazards in unknown substances. Testing to obtain IFSAC and PROBOARD certification is also provided.

During 2002, eleven Hazardous Materials Technician courses were taught across the state and a total of 237 students obtained IFSAC accreditation. Two more classes were held in 2003. Annual recertification is necessary to maintain IFSAC accreditation at the Hazardous Materials Technician level, a service that is also provided by the Hazardous Materials Division.

The Hazardous Materials Division also coordinates with other state agencies for training and actual hazardous materials/terrorism response. Strong ties exist between the State

Fire Marshal's Office, the Kansas Department of Health and Environment, the Kansas Department of Emergency Management, the Kansas Highway Patrol, and the Civil Support Team. Many of these agencies were present in July for a regional terrorism training scenario held in Topeka. Each agency has different capabilities, teams, and strengths. Unity and cooperation between agencies provides Kansas with a more thorough and cost-effective solution to terrorism and hazardous materials response.