

# **Report of the Joint Committee on Kansas Security to the 2016 Kansas Legislature**

**CHAIRPERSON:** Representative Mario Goico

**VICE-CHAIRPERSON:** Senator Greg Smith

**OTHER MEMBERS:** Senators Anthony Hensley, Mitch Holmes, Mike Petersen, Pat Pettey, and Steve Fitzgerald (substitute); and Representatives Carolyn Bridges, Kevin Jones, Adam Lusker, Peggy Mast, Tony Barton (substitute), and Louis Ruiz (substitute).

## **CHARGE**

The Joint Committee is directed by KSA 2015 Supp. 46-3301 to study, monitor, review, and make recommendations relating to security issues for the state. The Committee was directed to consider the following topics:

- The security of utilities in Kansas, specifically the electric grid, and what is done to ensure that security;
- The progress and potential security risks related to the National Bio and Agro-Defense Facility (NBAF);
- The rules for the use of deadly force at facilities including the NBAF and the nuclear facilities in Kansas;
- Safety planning and practices at K-12 schools and post-secondary institutions and the role of the Department of Education and other state agencies in increasing that safety planning;
- The extent to which certain persons may be claiming public and private benefits related to military service when not entitled to those benefits and how that could be reduced; and
- The governance of public emergency communications systems (as requested by the Adjutant General).

# Joint Committee on Kansas Security

## ANNUAL REPORT

### Conclusions and Recommendations

The Committee recommends 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.

The Committee recommends designating the Kansas Department of Education (KSDE) as the state agency responsible for coordinating Kansas school safety and preparedness activities and programming the staff and funding of a Kansas Center for Safe and Prepared Schools (KCSPS) into the State General Fund.

The Committee requests the House Committee on Veterans, Military and Homeland Security review possible unethical practices in the offering of certain types of financial products to veterans age 65 and older, during the 2016 Legislative Session.

**Proposed Legislation:** None. (However, implementation of Committee recommendations for addition of an analyst at the Kansas Intelligence Fusion Center and for the establishment of a KCSPS in the KSDE will require legislative action.)

### BACKGROUND

The 2004 Legislature created the Joint Committee on Kansas Security (KSA 2015 Supp. 46-3301) to study, monitor, review, and make recommendations for the following:

- Matters relating to the security of state officers and employees;
- Security of buildings and property under the ownership or control of the state;
- Matters relating to the security of a public body or agency, public building, or facility;
- Matters relating to the security of the infrastructure of Kansas, including any information system; and

- Measures for the improvement of security for the state.

The Legislative Coordinating Council (LCC) also directed the Committee to study the security of utilities in Kansas, specifically the electric grid, and what is done to ensure that security; the progress and potential security risks related to the National Bio and Agro-Defense Facility (NBAF), the rules for use of deadly force; safety planning and practices at Kansas schools and the role of the Department of Education and other state agencies in increasing that safety planning; the extent to which certain persons may be claiming public and private benefits related to military service for which they are not eligible; and the governance of public emergency communications systems (as requested in 2014 by the Adjutant General).

## **COMMITTEE ACTIVITIES**

The Committee received permission from the LCC to meet one day. It met November 6 in the Statehouse to hear information on the topics previously listed.

### **Security of Utilities**

Officials of Westar Energy briefed Committee members on security of electricity generation and distribution facilities in a session closed to the public under KSA 2015 Supp. 75-4319(b)(13). Staff were not present.

A member of the Kansas Corporation Commission briefed the Committee on security measures related to utilities and the Kansas Intelligence Fusion Center in a session closed to the public under KSA 2015 Supp. 75-4319(b)(13). Staff were not present. He provided an excerpt from U.S. Senate Committee on Appropriations Report 114-68 (June 18, 2015) that includes this statement: “The Committee is interested in the capabilities and successes of the Kansas Intelligence Fusion Center as a potential model for other fusion centers.”

### **Security at the NBAF**

Committee members received a briefing on security at the NBAF facility in Manhattan in a session closed to the public under KSA 2015 Supp. 75-4319(b)(13). Officials representing the NBAF and Kansas State University (KSU) were present to provide information. Staff were not present.

### **Security at the KSU Nuclear Reactor**

The manager of the nuclear reactor facility at the KSU College of Engineering briefed the Committee, in general terms, on the measures in place to ensure no release of radiation in case of an incident at that federally licensed research facility. He stated the facility’s physical security plan meets requirements of and has been approved by the Nuclear Regulatory Commission (NRC) and that additional planning for emergencies of any type has been done at KSU and with local emergency responders. He said many upgrades

were made to reactor security following the events of September 11, 2001, and noted state laws regarding firearms do not apply to the facility. He also discussed, in general terms, the measures in place to control access of persons to the facility. He stated the facility poses a very low radiological risk: the maximum calculated radiation dosages after a worst-case accident would be small fractions of NRC limits for members of the general public.

### **Use of Deadly Force**

A staff member provided an overview of federal law and Kansas statutes related to the use of deadly force, which is defined in Kansas law as “application of physical force likely to cause death or great bodily harm” (KSA 2015 Supp. 21-5221). She stated several federal regulations pertain to the use of deadly force and provided specific information about federal regulations pertaining to the Department of Energy protective force officers (10 CFR Part 1047), because of Committee member interest in law specific to nuclear facilities. A “protective force officer” is one authorized by the U.S. Department of Energy to carry firearms.

The staff member reviewed a memorandum provided to Committee members that included information on the circumstances under which the use of deadly force is justified for law enforcement officers making an arrest and for private persons. In general, the staff member said, the officer or private person must have a reasonable belief the deadly force is necessary to prevent death or great bodily harm to the person exercising the force or to another. She also outlined the justifications for use of deadly force by federal Department of Energy protective force officers, justifications that include preventing the theft, sabotage, or unauthorized control of special nuclear material. She noted Kansas case law has applied a two-part test: a showing the defendant sincerely and honestly believed the use of deadly force was necessary and a showing that a reasonable person in the defendant’s circumstances would have perceived the use of deadly force was necessary.

A special agent of the Kansas Bureau of Investigation (KBI) provided an overview of the extent of officer-involved shootings in Kansas and

reviewed the steps KBI officers take during any investigation of use of deadly force by a law enforcement officer. He provided a map showing, by county, where officer-involved shootings had occurred in state fiscal years (SFYs) 2013 through 2015, and he stated six such incidents had occurred in SFY 2016 through October 29. He stated the ultimate goal for investigators is to determine whether a criminal act occurred and whether an officer's use of force was legally justified. He noted the Force Science Institute at the University of Minnesota has determined that, on average, someone can shoot, turn, and begin to run before an officer can draw a weapon and return fire.

With regard to incidents on facilities such as the Wolf Creek Generating Facility or the NBAF, the KBI agent stated any use of deadly force at such a facility likely would be investigated by federal officials, with KBI assistance as requested by those federal officials. KBI agents would immediately step in to secure the scene of an incident if federal officers requested, even without a formal memorandum of understanding to that effect.

He noted the KBI participates in the Kansas Intelligence Fusion Center which monitors threats, including those to utilities, and the agency has investigated threats to schools in Kansas. He also answered questions of a general nature.

### **Safety Planning and Practices at Kansas Schools**

A deputy commissioner of the KSDE summarized for the Committee a proposal for a Kansas Center for Safe and Prepared Schools (KCSPS) that was presented to the Governor in 2014 but not included in the Governor's Budget.

The deputy commissioner reviewed the history of efforts to provide technical assistance to schools for preparedness to address hazards of many different types and the duties of the KCSPS that was active from 2009 into 2015: provide a clearinghouse on school safety and preparedness issues, create and deploy a school crisis resource center, establish training and exercise programs, and coordinate expectations and standards for school safety and preparedness. He stated the

former funding for the KCSPS – grants from the U.S. Departments of Homeland Security and Education – ended in May 2015. He reviewed the links between school preparedness and community preparedness (on a typical school day, between 20 percent and 25 percent of the population is in school settings) and challenges that include a lack of codified state standards or goals to guide K-12 school safety efforts and a lack of clarity on state government's role and responsibility for school safety.

The proposal would designate the KSDE as the state agency responsible for coordinating Kansas school safety and preparedness activities, with assistance from the Kansas Highway Patrol, the Kansas Adjutant General's Department, and other state entities as appropriate. It would program the staff and funding of the KCSPS into the State General Fund, and it proposes a budget equal to approximately 50 cents per student per year. The proposal would have the KCSPS make suggestions to the Governor's Office and Legislature regarding specific Kansas goals, roles, responsibilities, and authorities for school safety plus specific and measurable statewide goals.

### **Proof of Eligibility for Veterans' Benefits**

Staff reviewed documents often required as proof of military service, including Department of Defense Form 214 (DD 214) and National Guard Bureau Forms 22 and 23, and reviewed how those forms would be used in proving eligibility for disability compensation, certain home loans, and education benefits. She provided samples of those forms plus samples of military identification cards. She noted a grocery store chain and a pharmacy chain generally require military ID or a document from the U.S. Department of Veterans Affairs (VA).

An official from the Department of Revenue Division of Vehicles reviewed eligibility for veteran license plates, stating a DD 214 noting an honorable discharge must be shown upon initial application for the plate. Eligibility for the exemption from motor vehicle tax for full-time members of the military absent from the state due to military service must be documented each year.

A second Division of Vehicles official stated 22,473 driver's licenses and state-issued ID cards had "veteran" included on those licenses and cards to date, since 2014 SB 136 took effect (July 1, 2014). Adding such designation to a license or ID card for a spouse would require statutory amendment, he stated. He also provided a copy of the application for waiver of the skills test for a commercial driver's license that could be submitted by a person who operated certain commercial-size trucks while in military service; the application must be signed by the applicant's commanding office as well as by the applicant.

The Deputy Director of Veteran Services at the Kansas Commission on Veterans' Affairs Office (KCVAO) explained the role of the KCVAO in assisting veterans in applying for and claiming VA benefits. In general, a DD 214 is required.

The Deputy Director also expressed his concerns regarding a third-party annuity scam directed at veterans over age 65 and their families. He said the scheme involves attorneys, financial planners, and insurance agents trying to persuade veterans to make decisions about their pensions without giving them full information about the effects of placing assets into an annuity or insurance policy on eligibility for VA Aid and Attendance and for Medicaid. He listed eligibility requirements for VA Aid and Attendance.

### **Governance of Emergency Communications**

This topic was requested by the Adjutant General during the 2014 meeting of the Joint Committee. Staff reviewed portions of a memorandum provided to Committee members and other attendees.

Impetus to study state-level governance comes from the technological convergence of land mobile radio, broadband, and 911/Next Generation 911 and also from efforts to meet the federal First Responder Network Authority mission to provide wireless broadband dedicated to public safety. Staff reviewed aspects of the current governing structure, which includes the Statewide Interoperability Executive Committee established by Executive Order 07-27 (dated December 20, 2007) and the 911 Coordinating Council

established by the Kansas 911 Act (KSA 2015 Supp. 12-5362 *et seq.*).

Using a framework offered in the *Emergency Communications Governance Guide for State, Local, Tribal, and Territorial Officials* (October 2015) (developed by the National Council of Statewide Interoperability Coordinators and SAFECOM, a program of the U.S. Department of Homeland Security), KLRD staff summarized the emergency communications governance laws of Iowa, Minnesota, Oregon, and Utah. Those states were among those suggested by federal Office of Emergency Communications officials as having effective governance structures. However, staff said, those states approach governance differently, for example, oversight and coordination of multiple systems v. building and operating a single system, and one agency v. multiple agencies cooperating. A staff member reviewed how the states address such issues as the representation by stakeholders on the states' governing bodies, accountability for participation once selected for the governing body, the use of supplemental working groups and advisory committees, and aligning tasks to communications interoperability strategic plans.

### **CONCLUSIONS AND RECOMMENDATIONS**

The Committee recommends 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.

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