

Report of the Joint Committee on Kansas Security to the 2018 Kansas Legislature

CHAIRPERSON: Representative Kevin Jones

VICE-CHAIRPERSON: Senator Steve Fitzgerald

OTHER MEMBERS: Senators John Doll, Dan Goddard, Pat Pettey, and Lynn Rogers; and Representatives Michael Houser, Jarrod Ousley, Louis Ruiz, and Eric Smith

CHARGE

KSA 46-3301 directs the Joint Committee to study, monitor, review, and make recommendations on matters related to the security of state officers or employees, State and other public buildings and other property and infrastructure in the state, and to consider measures for the improvement of security for the State. In addition, the Committee is authorized to address these additional topics:

- Emergency communications;
- Organization of private, civilian resources related to state emergency preparedness and security; and
- Resources and readiness of the Kansas National Guard.

Joint Committee on Kansas Security

ANNUAL REPORT

Conclusions and Recommendations

The Committee recommends the Secretary of State, for all upcoming elections, protect the integrity of Kansas voting machines and protect against hacking, and assure the voters of Kansas that voting is tamper proof.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means consider the Kansas Bureau of Investigation enhancement presented to fund agent positions, particularly investigation positions. The Committee recognizes the need for the Legislature to study Kansas' overall law enforcement capacity as compared with demands on law enforcement and as compared with capacity in other states.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means consider authorizing the Kansas Division of Emergency Management to fill a Planner II National Bio and Agro-defense Facility position for FY 2019.

The Committee recommends continuity and priority of the Kansas Department of Agriculture's Emergency Exercise Plan for biosecurity and the Kansas Agriculture Emergency Response Corps through administrative changes, by placing those duties into statute. It suggests the Department of Agriculture recommend a bill.

The Committee commends Wolf Creek Nuclear Generating Station officials on their security measures and security planning.

Proposed Legislation: The Committee requests a bill to add a designated ranking minority member to the Committee.

BACKGROUND

The 2004 Legislature created the Joint Committee on Kansas Security (KSA 2017 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 also directed the Committee to study emergency communications; organization of private, civilian resources regarding emergency preparedness; and

the resources and readiness of the Kansas National Guard.

COMMITTEE ACTIVITIES

The Committee met in the Statehouse on May 2 and October 3 and 5. The Committee toured Wolf Creek Nuclear Generating Station (Wolf Creek) on October 3 and, on October 4, heard presentations at Kansas State University (K-State) on the Biosecurity Research Institute (BRI), the National Bio and Agro-defense Facility (NBAF), and the TRIGA Mark II nuclear reactor. On October 4, the Committee also heard a presentation at the offices of the Kansas Department of Agriculture (KDA) in Manhattan.

Security of State Officers and Employees

State office security review. On October 5, the Secretary of Administration reported the Governor had asked her to coordinate a review of facility security and training efforts at state offices, following the September 19, 2017, shooting of a Department of Revenue employee in Department of Revenue offices in Wichita. The Secretary reported she would be working primarily with the Kansas Highway Patrol (KHP), the Adjutant General, and the Office of Information Technology Services to address physical security measures, technology needs, training opportunities, and policy updates. She noted the State manages more than 400 leased buildings across Kansas and security arrangements vary for those buildings. The Secretary offered to provide an update to the Committee in January 2018.

Capitol Complex security. The Captain of Troop K of the KHP, the Capitol Police, described the role of the Capitol Police in protecting state employees and visitors in the Capitol and the Capitol Complex. He also described the types of officers assigned to the Capitol Police and their roles. The 15 full-time uniformed officers include a 2-officer investigation team with specialized training who work closely with officers from federal, state, and local law enforcement agencies; a public resource/public information officer (a new position in 2017); and 3 officers assigned to the bicycle patrol. He stated the bicycle patrol provides quick response times in the Capitol Complex, particularly during special events.

The Captain noted access to the Capitol is restricted *via* key card access and screening processes. The Capitol Police oversee the key card process and monitor users. In the screening process, he noted Capitol Police are operating x-ray inspection systems manufactured in 2010 and “metal detector” systems. He stated the systems’ warranties have expired, officers have reported the systems shut down unexpectedly, and both systems were exposed to dust and relocations during renovations in the Capitol. He provided estimates of costs prepared in 2016 for system replacement and warranties of approximately \$168,080; adding inspection to the Capitol’s loading dock was estimated at \$108,505.

The Captain provided a listing of 2,355 Capitol Police activities for January through August 2017. Those activities included 1,428 car stops, 59 instances of citizen assistance and 209 of services rendered, 266 instances of investigating subjects, 23 medical calls, 9 suspicious packages, and 18 threats. He urged lawmakers who receive hateful or threatening statements to report those incidents to both their local law enforcement agencies and to the KHP.

Public Safety Communications

FirstNet. At its May meeting, the Committee reviewed Kansas’ options for participation in the FirstNet Public Safety Network.

FirstNet, an independent authority within the National Telecommunications and Information Administration, was created as part of the Middle Class Tax Relief and Job Creation Act of 2012 and given the task to provide emergency responders with a nationwide high-speed, wireless broadband network dedicated to public safety use. The network could be used for voice messages, text messages, images, video, and location information, supplementing current land mobile radio communications. Each state chooses whether to opt in to the nationwide network or opt out and build its own network fully interoperable with the nationwide network. Federal law specifies governors have no more than 90 days after receiving the FirstNet proposed state plan to choose whether to opt in or opt out.

In April 2017, AT&T was selected as the FirstNet nationwide provider. Each public safety

agency will choose whether to use FirstNet. User fees are expected to pay for the system.

A representative of the Legislative Division of Post Audit (LPA) reviewed that office's performance report, *Office of Information Technology Services: Reviewing the State's Options Related to the FirstNet Public Safety Network*, released in April 2017. LPA concluded that, although the State could face some risks by opting in, it would have to overcome several significant challenges in order to successfully opt out. Those challenges would include financing plus meeting deadlines for planning and implementation of this complex project. According to the report, FirstNet asserts states will not incur costs to build or maintain the network, but there are some concerns states could have costs in the future.

The Chairperson of the Kansas 911 Coordinating Council (Council Chairperson) provided information on a letter written by the Council recommending to the Governor that he opt in to the nationwide network. The Council Chairperson noted 57 dispatch centers already were using AT&T NextGeneration 911 systems selected by the 911 Coordinating Council and 30 more expected to be online in 2018. He stated his belief subscriber costs to use the FirstNet network will be at or below rates paid by first responders for their current communication services.

The Director of Intelligence and Communications, Adjutant General's Department, testified the State conducted outreach and research to determine State and first responder requirements for the network and provided that information to FirstNet. He provided a document developed by a team including state and local officials and representatives of first responder organizations to use to evaluate the AT&T proposal for Kansas prior to the Governor's decision to opt in or opt out. The Chief Information Technology Officer of the Executive Branch also provided information on the upcoming evaluation of the AT&T proposal for the State.

The Kansas Division of Emergency Management (KDEM) Response and Recovery Branch Director (KDEM Director), also provided

general information about FirstNet and its implementation to the Committee on October 5. He stated a top priority will be deploying the network in places where coverage may be difficult.

(Note: On August 15, 2017, the Governor announced Kansas would participate in the nationwide FirstNet network.)

Kansas Interoperability Communications System (KSICS). At its meeting on October 5, the Committee received testimony from the KDEM Director regarding KSICS. KSICS is the daily means of communication for the Kansas Department of Transportation (KDOT), KHP, and 28 other state agencies using 6,237 radios. It provides daily or statewide interoperable use for 24,317 user radios associated with 1,084 non-state entities, an 800 MHz radio frequency band, and 76 antenna sites (towers) across the state. He stated KSICS is expected to continue for at least another ten years, as land mobile radios remain important to emergency communications. The spectrum is restricted by the Federal Communications Commission to public safety use.

(Note: The *Kansas Statewide Efficiency Review* report by Alvarez and Marsal, issued in January 2016, recommended KDOT evaluate selling or leasing the state radio system operation to commercial users. KDOT contracted with MissionCriticalPartners to further study the issue. In a report to KDOT dated July 6, 2017, the contractor reported it found limited opportunities for private sector involvement in certain aspects of KSICS operations and maintenance but increased costs to end-users would result from adoption of most options.)

Civilian Resources for Emergency Preparedness

The KDEM Director, on October 5, also updated the Committee on KDEM's roles in emergency preparedness and response. He stated emergency management is the organized analysis, planning, decision making, and assignment of available resources to mitigate, prepare for, respond to, and recover from the effects of all hazards. In Kansas, the top ten hazards in order of probability are flood, tornado, windstorm, winter

storm, wildfire, agricultural infestation, hailstorm, hazardous materials release, utility or infrastructure failure, and drought. Examples of mitigation, defined as “activities aimed at or eliminating or reducing the long-term risk of property damage and loss of life from hazards and their effects,” include zoning and building codes, floodplain buyouts, safe rooms, and radio repeaters. Preparedness involves planning, training, and exercises to test that training.

The KDEM Director reviewed responsibilities by level of government. He stated specific emergency actions and responsibilities are within each county’s emergency operations plan, which describes how the government will respond to critical tasks in an emergency—by whom (and lines of succession), by what authority, and using what resources. Major functions of local government in emergencies include direction and control, communications, emergency public information, evacuation, mass care, and resource management. A county declaration of emergency is the first step in accessing other resources, *e.g.*, by activating mutual aid agreements, and in providing access to state assistance. He described local Citizen Corps Councils and urged involvement in them.

State government responsibilities were described by the KDEM Director as developing and maintaining a statewide comprehensive emergency management program; supplementing and facilitating local efforts before, during, and after emergencies; providing guidance and assistance to localities through program development; and coordinating and integrating resources to local needs. He noted some of the resources coordinated through state efforts are private, and personnel of the State also coordinate with private organizations, such as church denomination assistance groups. State assistance is available when capabilities do not exist within the affected county or region, the county has exhausted mutual aid and contractor support, and the county has declared an emergency.

If damages exceed per capita thresholds set annually, a federal disaster may be declared, making assistance available to the State and to local and tribal governments for public facilities or infrastructure, the KDEM Director stated. Individual assistance is also available in some

instances, such as emergency loans through the U.S. Department of Agriculture, small business loans, and housing assistance.

Civilian involvement in intelligence sharing.

The Adjutant General, testifying October 5, noted the Kansas Intelligence Fusion Center (KIFC) analyzes systems-level threats to Kansas critical infrastructure and works with private industry to improve cybersecurity. Analysts from private industry participate. He also noted partnerships with K-State and the University of Kansas on bio-threats.

Resources and Readiness of the Kansas National Guard

The Adjutant General appeared before the Committee on October 5 to provide an overview of the readiness and staffing of the Kansas National Guard. He thanked the Legislature and other Kansans for their support and expressed his pride in the efforts of National Guard members, civilians in KDEM and Kansas Homeland Security, and their families. He noted approximately 1,000 soldiers and airmen had deployed around the world in the previous year, and 1,200 were preparing to deploy in the next year.

The Adjutant General described ways in which the Adjutant General’s Department works to reduce inefficiencies and mitigate effects of any reductions in resources. He stated this includes seeking out partnerships that better control state funding requirements. Efforts to identify opportunities to reduce costs by consolidating missions and maintenance include relocating Kansas National Guard Headquarters, the KIFC, and KDEM to Forbes Field, which also would better establish Forbes Field as a joint activity and lessen the likelihood it would be closed by a Base Realignment and Closure commission. He noted state moneys leverage matching federal dollars. He also pointed to energy-use reduction efforts.

The Adjutant General identified his top three challenges to the State and nation: the federal debt and other federal obligations will leave fewer resources available for defense; non-state actors have joined Russia, China, Iran, and North Korea as conventional and cyber threats; and few young

individuals are able and willing to serve in the armed forces. He suggested benefits for Guard members, such as tuition assistance, compete with benefits available to Guard members in nearby states.

Kansas Bureau of Investigation Resources

On October 3, the Director of the Kansas Bureau of Investigation (KBI) stated the agency lacks resources to meet the expectations of citizens, law enforcement partners, and prosecutors. The KBI Executive Officer provided more detailed information.

The Executive Officer stated numbers of violent crimes (murder, rape, robbery, and aggravated assault and battery) are above the ten-year average and numbers have increased in the past two years. The numbers of burglary and theft crimes have declined, but motor vehicle thefts have increased. These increases have resulted in increased demand for KBI investigative services, the Executive Officer said, and she noted 70 percent of Kansas law enforcement agencies have ten or fewer commissioned officers.

The Executive Officer reviewed examples of crimes the KBI has not been able to investigate. The KBI has only six specially trained agents to investigate Jessica's Law crimes against children; 100 physical child abuse or endangerment offenses were reported by jurisdictions with no investigators and the KBI did not work those cases. The KBI stopped accepting white collar and other financial crimes in 2012 unless the case involves a public official; the agency investigates 50-60 cases a year involving governmental integrity. However, data show Kansans lost at least \$7 million from Internet-based financial crimes and more than \$86 million in reported theft losses in 2016. She noted methamphetamine remains the greatest drug threat in the region, but heroin imports increased sevenfold since 2008 and border seizures of fentanyl increased 83 percent. Human trafficking also remains a major area of concern.

A graphic the Executive Officer reviewed showed a general decline in the number of funded agent positions, from 99 in FY 2010 to 74 in FY 2017 and FY 2018. Separate graphics showed investigative declinations increased from approximately 18 percent in FY 2014 to more than

30 percent in FY 2017, and overtime expenditures increased 733 percent from FY 2012 through FY 2016 to \$300,351 in FY 2016. The percentage of cases substantially completed within 90 days decreased from approximately 55 percent to approximately 33 percent from FY 2013 to the end of FY 2017.

The Executive Officer also provided information on numbers of officers assigned to major violent crime investigations and proactive narcotic enforcement: Kansas, 65 total; Oklahoma, 166 total; Nebraska, 90 total; Missouri, 103 total; Iowa, 78 total; and Arkansas, 88 total. (Colorado did not provide the requested information.)

The Assistant Director of the KBI provided information on investigation of cybercrimes. He stated, of the approximately 280,000 complaints the Federal Bureau of Investigation (FBI) receives each year, Kansas ranks 31st in the number of subjects, 32nd in the number of victims, and 33rd in financial loss; 1,963 Kansas victims reported Internet crime to the FBI in 2016. He discussed best practices for combating cybercrime, including establishing strong governance, defining who should be involved, developing collaborative public and private relationships, and generating interlocking response strategies; Michigan was offered as an example of a state following many best practices. He stated the KBI's vision for investigating cybercrime would include digital forensics, cyber investigation, investigation of child pornography and online exploitation of children, intelligence gathering, and technical support, with each of those "lanes" requiring specific skill sets and training.

The October 3 meeting was closed for 15 minutes pursuant to KSA 2016 Supp. 75-4319(a), as amended by Section 4 of Chapter 73 of the 2017 Session Laws, to allow KBI officials and Committee members to further discuss cybercrime investigations. (*Note:* Staff were not present.)

Biosecurity

Biosecurity Research Institute. The Committee and staff members received a briefing at K-State from the Director of the BRI. It focuses on infectious diseases that threaten livestock and humans, pathogens that threaten food crops, food processing methods to ensure food safety, the

biology of pathogens and diseases, and arthropod-borne diseases. The BRI Director noted the BRI has 14 research laboratories with support spaces that meet biosafety level 3 (BSL-3) requirements, where scientists can study very serious threats to the nation's food supply and infectious diseases. The BRI also contains facilities for biosafety and biocontainment training, molecular virology and immunological studies, arthropod containment, and plant and cell culture. The BRI Director described, in general terms, the multiple infrastructure and safety procedures in place to prevent releases of pathogens.

National Bio and Agro-defense Facility. At the BRI, the Committee and staff received a briefing on the NBAF under construction next to the K-State campus. The \$1.25 billion, 580,000-square-foot facility will provide integrated research, response, and diagnostic capabilities to protect animal and public health. The NBAF Project Manager stated the facility will include a completely isolated BSL-4 (the highest safety level) laboratory; currently, six are in operation in the nation, he said. He described in general terms design considerations and systems to prevent the release of any hazardous materials, including special air handling and special treatment of waste, and stated the three parts to security are physical, operational, and electronic.

Kansas Department of Agriculture. After introductory remarks from the Secretary of Agriculture, the Committee and staff received information from KDA staff regarding responses to plant and animal diseases.

The KDA Chief Counsel explained the statutory authority of the Secretary of Agriculture to respond to outbreaks of plant pests and animal diseases, for example, to eradicate plant pests and to quarantine animals with certain contagious or infectious diseases. If a quarantine is issued, KDA officials may enter private property; enforce directions, rules, and regulations to prevent spread of the disease; prevent animal shipments; and take other steps.

The Animal Health Commissioner described the process of a disease investigation. He described a recent outbreak of equine infectious anemia in horses linked to an informal horse

racing facility in Finney County and the actions taken to identify horses with the disease and prevent further infection. All horses that tested positive for the disease had to be euthanized, with the only other option being lifelong quarantine.

The KDA Emergency Management Coordinator and the Program Manager for the Kansas Agriculture Emergency Response Corps (KAERC) provided information on a stop-movement response to an animal disease outbreak and exercises to test those response plans. They explained that, during a large-scale incident, the KAERC will use the wide range of skills of volunteers in local communities in roles not filled by state and federal staff. KAERC volunteers will complete several training courses.

The Secretary stated the KDA would need veterinarians, communications personnel, volunteer coordinators, and other trained persons to deal with any outbreak. She asked the legislators to consider giving the KDA statutory responsibility for outbreak planning and exercises and for a trained volunteer corps.

Nuclear Facilities

Wolf Creek. The Committee and staff traveled to Wolf Creek, near Burlington, on October 3 for an overview of the facility and a tour of a portion of the facility. Emergency preparedness and general security were among the issues addressed by Wolf Creek officials.

K-State. Committee members and staff received a briefing at the TRIGA Mark II Nuclear Reactor Facility at K-State from its manager. The reactor is licensed to operate at up to 1.25 megawatts and went critical in 1962. The manager described its research capabilities and, in general terms, safety for the facility.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the Secretary of State, for all upcoming elections, protect the integrity of Kansas voting machines and protect against hacking, and assure the voters of Kansas that voting is tamper proof.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means consider the KBI enhancement presented to fund agent positions, particularly investigation positions. The Committee recognizes the need for the Legislature to study Kansas' overall law enforcement capacity as compared with demands on law enforcement and as compared with capacity in other states.

The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means consider authorizing KDEM to fill a Planner II NBAF position for FY 2019.

The Committee recommends continuity and priority of the KDA's Emergency Exercise Plan for biosecurity and the KAERC through administration changes, by placing those duties

into statute. It suggests the KDA recommend a bill.

The Committee requests a bill for introduction to add a ranking minority member for each interim committee. (After consultation with staff of the Revisor of Statutes, it was determined the Committee bill would propose an amendment to KSA 2017 Supp. 46-3301 to add designation of a ranking minority member for the Joint Committee on Kansas Security. It was noted KSA 2017 Supp. 46-3301(f) authorizes the Committee to introduce only legislation deemed necessary in performing the Committee's functions. A separate bill will be drafted to designate a ranking minority member for each interim committee, to be introduced by an individual legislator or a standing committee.)

The Committee commends Wolf Creek officials on their security measures and security planning.