

Report of the Joint Committee on Kansas Security to the 2024 Kansas Legislature

CHAIRPERSON: Representative Eric Smith

VICE-CHAIRPERSON: Senator Mike Petersen

OTHER MEMBERS: Senators Rick Kloos, Virgil Peck, Jeff Pittman, and Mary Ware; and Representatives Michael Dodson, Jarrod Ousley, Pat Proctor, and Virgil Weigel

CHARGE

Review Various Security Matters

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.

Joint Committee on Kansas Security

ANNUAL REPORT

Conclusions and Recommendations

- The Joint Committee on Kansas Security (Committee) recommends the House Committee on Appropriations and Senate Committee on Ways and Means consider transferring \$170,000 from the State General Fund (SGF) to the Emergency Response Fund at the Office of the State Fire Marshal to replenish moneys expended in the response to a white powder threat letter incident in June 2023. These expenditures derive from the simultaneous activation of eight of the nine regional Hazardous Materials Response Teams.
- The Committee supports continued use of SGF moneys by the Kansas Information Security Office (KISO) to provide state agencies with cybersecurity services rather than charging agencies for such services. Further, the Committee recommends the use of SGF moneys for the KISO to expanded.
- The Committee requests the Legislative Coordinating Council arrange for the Capitol Police to provide active shooter response training, as well as other relevant emergency response training, to legislators and legislative staff early in the 2024 Legislative Session.

Proposed Legislation: None

BACKGROUND

The 2004 Legislature created the Joint Committee on Kansas Security (Committee) (KSA 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 systems; and

- Measures for the improvement of security for the state.

The statute also directs the Committee to review and monitor federal moneys received by the State for the purposes of homeland security and other security matters.

COMMITTEE ACTIVITIES

The Legislative Coordinating Council approved two meeting days (including travel) for the Committee during the 2023 Interim. The Committee met at the Coffey County Library in Burlington and toured the Wolf Creek Nuclear Generating Station and facilities of a private entity on October 12, 2023, and met at the Statehouse on October 13, 2023.

Some of the presentations to the Committee were conducted in closed session under provisions

of KSA 75-4319(b)(12)(C), an exception to the Kansas Open Meetings Act regarding meetings to discuss security of public bodies, facilities, and information systems. Legislative staff were not present in the closed sessions.

October 12, 2023, Meeting

At the October 12, 2023, meeting, the Committee heard information on capital projects at the Adjutant General's Department concerning National Guard facilities and emergency management services. The Committee also received an update on Executive Order (EO) 23-03, which directs continuity of operations plans (COOP) among Executive Branch agencies.

Adjutant General's Department Capital Projects

The Director of Public Works, Kansas National Guard, reviewed capital projects at the Adjutant General's Department. The agency maintains nearly 3.0 million square feet of building space in communities across the state. Major projects include:

- Construction of the Joint Forces Headquarters on federal property at Forbes Field in Topeka, which will house the Office of the Adjutant General and command staff of the Kansas Air and Army National Guard;
- Construction of a new armory in Hays to replace a facility located in a flood plain. This project includes the purchase of land north of I-70 and facility construction;
- Remodeling of the State Defense Building in Topeka, which houses the Kansas Division of Emergency Management (KDEM) and the State Emergency Operations Center;
- Energy resiliency projects at National Guard facilities in Salina and Topeka that involve installation of canopy-mounted solar arrays over parking lots;
- Restoration of the Kansas City Armory to repair damage from flooding incurred in 2022 due to plumbing failures;

- Plans for construction of the 130th Field Artillery Brigade Headquarters, which will be a National Guard Readiness Center constructed on federal property at Fort Riley; and
- Recent acquisition of the Trembly White Readiness Center in Kansas City, which became available at no cost to the State due to it being vacated by a U.S. Army Reserve unit. The building requires interior upgrades and exterior repairs.

Executive Order 23-03, Continuity of Operations Planning

The Deputy Director of KDEM provided background on COOP planning for state agencies in Kansas to ensure the provision of uninterrupted essential services before, during, and after an incident that disrupts normal operations. The Deputy Director listed four phases of COOP: readiness and preparedness, activation and relocation, operations, and reconstitution.

The Deputy Director noted that a State Agency COOP Committee was established in 2007 under the authority of the Commission on Emergency Planning and Response (CEPR), pursuant to KSA 65-5722, primarily in response to the 2007 Greensburg tornado. The Committee conducts quarterly planning meetings and annual exercises. The Deputy Director noted lessons were learned from major incidents, and planning and operations are adjusted accordingly.

The Director of Planning and Mitigation, KDEM, discussed implementation of EO 23-03, signed by the Governor on July 21, 2023. The EO directs Executive Branch agencies to develop or update their COOPs by December 31, 2023; directs KDEM to provide technical assistance and serve as repository for plans; and requires an annual report to the CEPR and includes additional requirements for the plans. Technical assistance includes the provision of common planning software and training workshops. The plans are to cover topics including essential functions, delegations of authority, continuity of communications, and human resources.

The effort involves 65 state agencies, excluding the State Board of Regents and state universities. Submission of the plans will occur in two phases, with Phase I focusing on cabinet agencies and Phase II addressing non-cabinet agencies. As of October 2023, KDEM had approved plans for 11 agencies. The Director of Planning and Mitigation also noted the Kansas Supreme Court ordered COOPs for state district courts.

October 13, 2023, Meeting

At the October 13, 2023, meeting, the Committee heard information on Kansas Highway Patrol staffing and operations, security measures at the reconstructed Docking State Office Building (Docking Building), Kansas Information Security Office operations, generative artificial intelligence (AI) policy, crime statistics, activities of the Kansas Bureau of Investigation (KBI), hazardous materials incident response, funding for encrypted communications equipment, and response to the white powder threat letter incident in June 2023.

In closed sessions, the Committee heard information on Capital Complex security, the cyber threat landscape, and threats to infrastructure.

Kansas Highway Patrol Staffing and Operations

Operations

The Superintendent of the Kansas Highway Patrol (KHP) discussed recent agency operations. He stated that 116 pounds of fentanyl were seized in 2022 and noted that ingesting just 2 milligrams of the substance can be fatal. Additionally in 2022, 34 illegal firearms were seized and 1,254 arrests were made for driving under the influence of alcohol or drugs. Trends based on six months of data for 2023 indicate decreases in fentanyl seizures, felony arrests, and issuance of speeding citations.

As the only law enforcement agency in Kansas with aircraft, KHP provides support to other jurisdictions throughout the state. Aircraft hangars and crews are located in Topeka, Wichita, and Hays. The agency recently acquired a new Cessna Caravan airplane, which is being outfitted with high-resolution surveillance cameras. Receipt of a

new executive jet and two law enforcement helicopters will occur in the near future.

The Superintendent also reviewed the roles of each of the agency's troops and expenditures of American Rescue Plan Act moneys for law enforcement agency communications equipment.

Trooper Staffing

The Superintendent stated 462 sworn officer positions are currently filled, which is 15 below the ten-year high in FY 2019. The agency expects to graduate 30 troopers in 2023, which is an increase attributed to a condensed on-boarding process for recruits. The agency projects graduating 50 troopers in 2024.

Docking Building Security

The Deputy Secretary of Operations and Director of Facilities and Property Management, Department of Administration, provided an update on reconstruction of the Docking Building, its impacts on the Capital Police, and integration of security into the structure.

Completion of the Docking Building reconstruction is estimated for June 2025. The Deputy Secretary stated the three-level structure will include state agency offices, conferencing space, and an outdoor plaza. Security features will include:

- A secure area for Capitol Police parking and arrest intakes;
- Reuse of limestone components for a perimeter barrier to vehicles;
- An entry control point with turnstiles and metal detecting scanners;
- Open floor plan that affords enhanced sight lines for security personnel; and
- Security stations on the upper level conferencing area.

Prior to demolition of the old Docking Building, Capital Police units were temporarily relocated to nearby state offices and leased space

to maintain continuous services during reconstruction. These units will be moved back to the Docking Building upon completion of the new structure.

Kansas Information Security Office

The Executive Branch Chief Information Technology Officer (CITO) provided an overview on Kansas Information Security Office (KISO) operations, recent budget enhancements, AI policy, and cybersecurity collaboration with local entities.

KISO Operations

The KISO was established in 2018 to advise agencies on cybersecurity matters and was funded exclusively through fees charged to agencies. The CITO stated the office currently has a budget of \$11.0 million, including \$5.8 million from the State General Fund (SGF), and provides cybersecurity services to all Executive Branch agencies.

The CITO reviewed the organization of the KISO into the following areas:

- Cybersecurity Operations with staff who design, implement, and manage technical tools; monitor systems for anomalies; and investigate threats. These staff are first responders to cyber threats and share intelligence with state agencies and local entities;
- Information Assurance includes information security officers assigned to state agencies to build information security programs, advise agency leadership, and ensure compliance with KISO practices; and
- Cyber Collaboration and Cyber Preparedness staff facilitate outreach to local governments to build statewide information technology resilience, conduct training and tabletop exercises, and administer federal grant funding to local entities. This function was added in 2022.

Budget Enhancements

The 2023 Legislature approved the addition of \$5.8 million SGF to offset the elimination of charges to state agencies for cybersecurity services. The CITO stated these SGF moneys also allowed for the hiring of information security officers assigned to state agencies and procurement of multiple cybersecurity technology tools for agencies at no cost. These tools enable the KISO to maintain a centralized assessment of cybersecurity concerns.

Generative AI Policy

The CITO published a Generative AI Policy that applies to all Executive Branch agencies, with an effective date of July 31, 2023. He noted that generative AI, which produces text, images, or other media using generative models, is increasingly available. While this technology can increase employee productivity, it creates concerns regarding intellectual property rights, production of false responses, and use of Kansas data without consent.

The CITO clarified that the policy establishes guard rails around use of generative AI. The policy prohibits AI use without human intervention and requires vendors to disclose the presence of AI. Further, the policy prohibits use of Kansas data to train generative AI models, unless authorized.

Crime Statistics and KBI Activities

The KBI's Executive Officer presented crime statistics showing, by year, numbers of crimes by category and the ten-year average numbers in crimes in the categories of violent crimes overall (murder, sexual assault, robbery, and aggravated assault) and property crimes overall (burglary, larceny/theft, motor vehicle theft, and arson).

He noted that although there were fewer violent crimes, rapes, murders, robberies, and aggravated assaults in 2022 than in 2021, the number of violent crimes in those categories remained 9.2 percent above the ten-year average for the state. The number of murders and aggravated assaults in 2022 remain significantly above the 2019 pre-COVID ten-year averages. The decline in robbery is attributed to increased work-from-home practices.

[*Note:* The KBI subsequently submitted amended testimony to the Committee indicating that violent crime numbers in Kansas in 2022 increased by 2.1 percent from 2021 rather than decreased, as stated above. Submission of the amended testimony is due to an error identified with crime data submitted by one of the state's largest local law enforcement agencies.]

The Executive Officer stated the KBI Field Investigations Division investigates approximately 300 violent crime cases per year through the work of 38 Special Agents located in 105 counties. These include investigations initiated by KBI and cases in which the agency provides limited assistance to local entities. The agency desires to increase the investigative assistance provided to local law enforcement agencies, recognizing that 50.0 percent of such local agencies in Kansas operate with fewer than five officers.

Crimes Against Children

The Executive Officer reported crimes against children are a priority area for the agency. According to National Center for Missing and Exploited Children (NCMEC), reports of online enticement targeting children in 2022 increased by 112.6 percent from 2021. These engagements take place on social media and gaming platforms and lead to extortion of children and buying and trading of explicit images.

To address this, Child Victim Task Forces with special agents were established to investigate reports of online child exploitation in the northeast and western regions of the state. More than 200 tips from NCMEC from across Kansas are waiting to be assigned for investigation. Due to this, the KBI planned to request funding to establish a third task force covering the southeast region.

Illegal Substances

The Executive Officer reported that the federal High Intensity Drug Trafficking Areas program ranks fentanyl as the greatest drug threat in its Midwest region, which comprises Kansas, Iowa, Missouri, Nebraska, North Dakota, and South Dakota. Methamphetamine and marijuana continue to be widely available in Kansas, and compose the majority of submissions to the KBI laboratory. Authorities note 71 drug trafficking

organizations operate in Kansas, primarily dealing in fentanyl.

To address this, the Joint Fentanyl Impact Team was established in Kansas in 2022 to identify and disrupt fentanyl trafficking. The team includes representatives from the KBI, KHP, and the U.S. Department of Homeland Security utilizing K-9 teams at inter-modal transport sites. Since March 2023, KBI had seized 58,000 fentanyl pills.

The Executive Officer discussed the emerging illegal use of xylazine, a sedative for veterinary use, as an additive to fentanyl.

Cybercrimes

The Executive Officer stated that the Internet Crime Complaint Center (IC3), administered by the FBI, has received more than 6.5 million cybercrime complaints nationally since its inception in 2000. The 2,399 complaints from Kansas reported to the IC3 in 2022 combined meant an estimated monetary loss of \$58.0 million due to internet-related crimes.

In FY 2020, the KBI established its Cyber Crime Unit, with six special agents. The Executive Officer reported the unit had received 652 tips to date in FY 2023, with business email compromises and computer intrusion cases being the most frequent. The KBI initiated 24 criminal investigations and the Executive Officer noted such investigations are particularly manpower- and time-intensive.

In response to questions, the Executive Officer commented on the rape kit backlog (reporting it largely resolved), suitability of staffing levels for the Child Victim Unit and Cyber Crime Unit, and safety procedures for legislators.

Hazardous Material Incident Response

The State Fire Marshal provided an overview of the Hazardous Material Response program coordinated by the Office of the State Fire Marshal (OSFM) and discussed the impacts of the white powder threat letter incident to this program.

The program ensures hazardous materials, including those associated with weapons of mass

destruction, toxic industrial chemicals, radiological spills, fires, and explosions, are handled safely with minimal exposure to citizens and with minimal threat to lives and property. Examples of incident types include:

- Overturned cargo trucks with leaking chemical payloads;
- Train derailments; and
- Floods affecting petroleum refineries.

The program is composed of nine regional Hazardous Material Response Teams located across the state and staffed by local firefighters. OSFM provides compensation for calls, coordinates training, and provides specialized equipment and vehicles. The program responded to 837 hazardous material incidents in FY 2022. The State Fire Marshal noted equipment needed by the teams to monitor for hazardous substances is costly and must be replaced every few years due to advances in technology.

The State Fire Marshal noted standing agreements with the Wolf Creek Nuclear Generating Station and National Bio and Agro-Defense Facility that require Response Team assistance in the event of an incident.

Federal ARPA Funding for Law Enforcement Communications Equipment

On December 21, 2021, the State Finance Council allocated discretionary funding from the federal American Rescue Plan Act (ARPA) for a State Efficiency and Modernization program, which included a total \$15.7 million for the KHP and KBI to update communications equipment.

The Superintendent of the KHP noted emerging federal requirements to encrypt radio communications when transmitting criminal justice information. Of the \$15.0 million in ARPA funding awarded to KHP, a total of \$14.3 million had been expended as of September 30, 2023, to purchase communications equipment with encryption capabilities that are interoperable with equipment of other state agencies and local public safety entities. This equipment includes handheld and vehicle-mounted radio and dispatch systems.

The KBI Executive Officer stated the agency was awarded \$771,200 in ARPA funding to purchase vehicle-mounted radios. He reported the agency was selecting a vendor capable of providing and installing communications equipment that meets federal requirements.

White Powder Threat Letter Incident

The white powder threat letter incident in June 2023 involved the mailing of threatening letters containing an unknown white powder to more than 100 state legislators in Kansas and other states. The response in Kansas was led by the KBI until the matter was identified as a multi-state incident, at which time the Federal Bureau of Investigation (FBI) assumed lead. The response involved multiple state and local agencies, including KHP and OSFM. The incident remains under federal investigation, which limited comments by conferees.

KBI Response

The Executive Officer stated the KBI led the response for the initial 96 hours before handing off the matter to the FBI. The KBI used approximately \$575,000 in resources during that initial period, assigning nearly all special agents and devoting nearly all laboratory services to the effort during that time period. The Executive Officer expressed concerns regarding the agency's capacity to respond to a similar event in the future should it occur simultaneously with other incidents.

KHP Response

The Superintendent stated most letters were sent to the home addresses of legislators, which was handled by local law enforcement and the KBI. KHP's involvement was limited to the receipt of some letters at the Capitol. The Superintendent confirmed that in the event of suspicious mail delivery to the Capital Complex, the Capitol Police will implement hazardous device protocols and notify local law enforcement.

OSFM Response

The State Fire Marshal described the incident's impacts on the Hazardous Material Response program coordinated by the OSFM. These impacts included:

- Simultaneous activation of eight of the nine Hazardous Material Response Teams, which was the first activation of such magnitude in program history;
- Response Teams fielded hundreds of calls related to the incident within one week; and
- The response required the unforeseen expenditure of \$170,000 from the OSFM's Emergency Response Fund.

The State Fire Marshal requested the Committee recommend that the 2024 Legislature replenish the Emergency Response Fund with SGF moneys due to the extraordinary nature of the incident.

CONCLUSIONS AND RECOMMENDATIONS

After discussion on topics including enhanced KBI investigative services to support local law enforcement agencies in rural areas, funding mechanisms for the provision of cybersecurity services among state agencies, safety procedures for the Legislative Branch, and expenditures in

response to the white powder threat letter incident, the Committee agreed to the following:

- The Committee recommends the House Committee on Appropriations and the Senate Committee on Ways and Means consider transferring \$170,000 from the SGF to the Emergency Response Fund at the Office of State Fire Marshal to replenish moneys expended in response to the white powder threat letter incident in June 2023. These expenditures derive from the simultaneous activation of eight of the nine regional Hazardous Materials Response Teams;
- The Committee supports continued use of SGF moneys by the KISO to provide state agencies with cybersecurity services rather than charging agencies for such services. Further, the Committee recommends the use of SGF moneys for the KISO to expanded; and
- The Committee requests the Legislative Coordinating Council arrange for the Capitol Police to provide active shooter response training, as well as other relevant emergency response training, to legislators and legislative staff early in the 2024 Legislative Session.