

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 March 6, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Senator Betts
Senator Haley
Representative Faust-Goudeau
Allen Smith, Governor's Task Force on Racial Profiling
Mike Watson, Governor's Task Force on Racial Profiling
Danielle Dempsey-Swopes, Kansas African American Affairs Commission
Steve Cisneros, Kansas Hispanic & Latino American Affairs Commission
Jared Maag, Attorney General's Office
Sean McCauley, Fraternal Order of Police
Ed Klumpp, Kansas Peace Officers' Association
Chief Robert Sage, Kansas Association of Chief's of Police
Frank Denning, Kansas Sheriff's Association
Shiela Officer

Others attending:

See attached list.

The Committee Minutes for January 29, 30 and February 5, 6, 7, 12, and 13, distributed on February 28, 2008, with no changes stand approved.

Staff provided the history on the bill. **SB 77** which was enacted in 2005 made racial profiling unlawful and created a 15 member task force on Racial Profiling. In 2006 **Sub for SB 486** was passed to extend the task force to 2009.

Staff provided an overview of the bill. (Attachment 1)

The committee was provided with a report from the Attorney General's web site with the data from 2007 and a summary page; the information reflects the agency, the complaints filed, the date filed, action taken and the date closed. There were two incidents where action was taken, and the rest were adjudicated without any particular cause for action.

SB 610 - Racial profiling; requiring racial profiling abatement training and establishing duties for the attorney general

Chairman Brungardt opened the hearing on **SB 610**.

Senator Betts spoke in favor of the bill. (Attachment 3) Because of the length of time it has taken the task force to provide a final report to the governor and the Legislature, an independent citizen advisory board for cities of the first class (created by the legislature) also provided some recommendations that would make the law more enforceable to the legislature.

Representative Faust-Goudeau spoke in favor of the bill. (Attachment 4) The bill would help provide a resource to address the concerns of Kansans who feel they are unfairly racially profiled against.

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Senator Haley spoke on the bill. ([Attachment 5](#)) The bill strives to create another level of bureaucracy between an alleged victim of profiling and justice.

Pastor Allen Smith, Co-Chair, Governor's Task Force on Racial Profiling, spoke on the bill with the Task Force recommendations. ([Attachment 6](#)) The Task Force as a result of input from citizens, and discussion with law enforcement leaders find that some revision to the statutes is necessary. The continuation of the Task Force work and implementation of its recommendations will address the concerns of Kansas communities regarding racial profiling, without creating a significant burden on law enforcement agencies. The Task Force amendment to SB 610:

- Maintains the current definition of profiling and adds clarification regarding profiling on the basis of ethnicity
- Requires the Task force to implement a method for the collection and analysis of traffic stop data within a reasonable time
- Mandates that the Kansas commission on Peace Officers Standards and Training (KSCPOST) reviews complaints and initiate discipline against officers engaged in profiling
- Mandates the use of a uniform traffic citation for the collection of data statewide

The Chairman requested copies of the reports and if they were available on line.

Mike Watson, Member Governor's Task Force on Racial Profiling, spoke in support of the bill with the Task Force recommendations. ([Attachment 7](#)) The Task Force has acquired two National Highway Traffic Administration grants in excess of one million dollars to support the administration of the Task Force, assist in the training of law enforcement officers, and continue implementation of the racial profiling statutes, including the collecting, analyzing and utilizing of law enforcement traffic stop data to assist in preemption of racial profiling. Mr. Watson asked for the support of:

- retaining current working "sole factor" in the definition of racial profiling rather than 'a factor'
- deleting "pedestrian stops" as added in the bill
- retaining current language holding officer and agency or both civilly liable rather than adding "any person with supervisory authority over such officer"

Danielle Dempsey-Swopes, Administrator, Governor's Task Force on Racial Profiling, spoke on the bill and respectfully asked the bill to be amended as recommended by the Governor's Task Force on Racial Profiling. A balloon and statutes were provided. ([Attachment 8](#))

Steve A. Cisneros, Administrator Governor's Task Force on Racial Profiling, spoke in support of the Task Force's amendment to the bill. ([Attachment 9](#))

Jared S. Maag, Deputy Solicitor General, spoke on the bill and requested that New Section 5 (d) be stripped from **SB 610**. ([Attachment 10](#)) The issue with this language is the Office of the AG has never historically acted as an administrative agency reviewing complaints and making final determinations. KSCPOST was created solely to perform this administrative function and the process should begin and end there. The Office of the Attorney General regularly has Assistant Attorneys General sit as legal advisors during hearings before KSCPOST; to that end, New section 5(d) poses a potential conflict with that process.

Walt Chappell, Citizens Advisory Board, provided written testimony in support of the bill. ([Attachment 11](#))

Sean McCauley, Attorney for Fraternal Order of Police, (FOP) spoke in opposition to the bill ([Attachment 12](#)) The FOP and its members are adamantly opposed to any form of racial profiling and have a number of concerns with regard to the changes being considered in the bill and the possible effects on FOP members and on law enforcement in general.

- Changes to the definition of racial profiling
- References to disciplining of officers
- Complaint Review Process

The FOP encourages the committee to take no action on the bill and not to adopt any of the proposed suggested changes.

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Ed Klumpp, Kansas Peace Officers' Association, (KPOA) appeared in opposition to the bill with amendments. (Attachment 13) The KPOA wants to be clear that racial profiling is not an acceptable police practice, and recognize that the response to racial profiling concerns must be balanced in a manner to allow law enforcement to take appropriate actions to prevent, detect, and investigate criminal activity. Law enforcement must also be able to resolve the multitude of non-criminal complaints called upon to be resolved in the communities. There are provisions in the bill that will be detrimental to the ability of law enforcement and to public safety. Items recommended for amendments:

- Page 2, lines 13 - 20, setting a deadline for actual implementation
- Page 3, lines 27 - 29, remove the two hours training mandate
- Page 3, lines 35 - 37, delete the expansion of mandated advisory boards

Chief Robert S. Sage, President, Kansas Association of Chief's of Police, (KACP) spoke in opposition to the bill. (Attachment 14) The KACP does support different provisions of the bill, but cannot support:

- the definition change
- the change in data collection
- two hour mandatory training for law enforcement officers
- citizen advisory boards as a requirement for agencies with 10 or more certified officers
- the review process for complaints

Frank Denning, Legislative Chair, Kansas Sheriff's Association, spoke in opposition to the bill. (Attachment 15) The bill is an attempt to recreate all of the work that has already been accomplished in SB 77. The bill would mandate that every law enforcement agency with 10 or more officers establish a citizen advisory board; every community is unique and a one-size fits all solution is a recipe for poor public policy.

Sheila Officer, Wichita, appeared in opposition to the bill. (Attachment 16)

Chief Norman Williams, City of Wichita, provided written testimony in opposition to the bill. (Attachment 17)

Kevin Myles, President, Wichita Branch NAACP, provided written testimony in opposition to the bill. (Attachment 18)

Written testimony as neutral information on the bill was provided by The Kansas Human Rights Commission (Attachment 19) Colonel Terry Maple, Kansas Highway Patrol, provided written concerns on the bill. (Attachment 20)

Chairman Brungardt closed the hearing on **SB 610**.

Reports were provided and are available in the Kansas Legislative Research Department.

The Governor's Task Force on Racial Profiling Report and Recommendation - Oct. 31, 2005

The Governor's Task Force on Racial Profiling Report - Yearly Report Aug 31, 2007

The meeting was adjourned at noon. The next scheduled meeting is March 11, 2008.