

MINUTES

SPECIAL COMMITTEE ON KANSAS SECURITY

December 10, 2003
Room 123-S—Statehouse

Members Present

Representative Lee Tafanelli, Co-Chairman
Senator Jim Barone, Ranking Minority
Senator Dave Jackson
Senator Nick Jordan
Senator Larry Salmans
Representative Sydney Carlin
Representative Mario Goico
Representative Joe Shriver

Members Absent

Senator Jay Scott Emler, Co-Chairman
Representative Carl Krehbiel

Staff Present

Robert Waller, Kansas Legislative Research Department
Bruce Kinzie, Office of the Revisor of Statutes
Dee Ann Woodson, Committee Secretary

Conferees

Jeff Russell, Director of Legislative Administrative Services
Richard Morrissey, Interim Director, Division of Health, Kansas Department of Health and Environment
John Douglass, Overland Park Chief of Police
Sandra Jacquot, League of Kansas Municipalities
Gary Middleton, Kansas Emergency Management Association
Captain Mark Bruce, Kansas Highway Patrol
Richard Hernandez, Consultant, E-Fm Consulting
Judy Moler, Kansas Association of Counties

Morning Session

Co-Chairman, Representative Tafanelli, called the meeting to order at 9:15 a.m., and announced the first item on the agenda would be a discussion of Capitol area security procedures during which the meeting would be closed in accordance with the law.

Representative Shriver moved that the open meeting of the Special Committee on Kansas Security be recessed for a closed, executive meeting pursuant to Joint Rule 5 of the Joint Rules of the Senate and House of Representatives and subsection (b)(13) of KSA 2003 Supp. 75-4319, and amendments thereto, for the purpose of consulting with Jeff Russell, Director of Legislative Administrative Services, and with members of the Kansas Highway Patrol regarding matters (1) relating to the security of state officers or employees, or both, or the security of buildings and property under the ownership or control of the State of Kansas, or (2) matters relating to the security of a public body or agency, public building or facility, or the information system of a public body or agency, which matters if discussed at an open meeting would jeopardize the security of such individuals, buildings or facilities, public body or agency, property or information system, that the Special Committee on Kansas Security resume the open meeting in this room, Room 123-S, at 9:50 a.m., and that this motion, if adopted, be recorded in the minutes of the Special Committee on Kansas Security and be maintained as a part of the permanent records of the Committee. The motion was seconded by Senator Jackson. Motion passed at 9:17 a.m. on December 10, 2003. (Attachment 1).

The Committee designated Jeff Russell, Director of Legislative administrative Services; General Jonathan Small, Acting Adjutant General; Gene Krause, Administrator for the Division of Emergency Management; and two members of the Capitol Area Police as essential personnel to attend the presentation and discussion along with staff member, Robert Waller.

Closed Meeting

Co-Chairman Tafanelli reopened the meeting to the public at 9:50 a.m., and called upon Richard Morrissey, Interim Director, Division of Health, Kansas Department of Health and Environment (KDHE), to give a review of human health issues.

Dr. Morrissey informed the Committee that KDHE began receiving bioterrorism grant money in 1999, and over a three-year period has received approximately \$850,000 per year. The funding was utilized in developing electronic systems, internal capacity, additional staffing, and planning. Beginning in 2002, KDHE received a significant increase in funding following September 11, 2001, amounting to approximately \$12 million, and that amount continued into 2003. He explained the \$12.3 million in grant funding was received from the Centers for Disease Control (CDC), and focused on public health preparedness and development. Another grant was received from Health Resources and Services Administration (HRSA), a division of the Department of Health and Human Services, and focuses on hospital preparedness from 2002 to 2003 in the amounts of \$1.3 million, and \$5.1 million, respectively (Attachment 2).

Dr. Morrissey then provided the committee with an update to the Kansas' Public Health Bioterrorism Program. He explained that KDHE has worked very closely with the Kansas Association of Local Health Departments to develop and implement the public health bioterrorism program. In federal fiscal year 2002, \$5,350,000 in grant funds were provided directly to local health departments throughout Kansas, and an additional \$6,125,000 will be directly distributed in the current FFY 2003. Included with his written testimony, Dr. Morrissey provided an attachment that summarized the

activities for each of the seven focus areas in the CDC Bioterrorism Cooperative Agreement which detailed the allocation of grant funds for FFYs 2002 and 2003.

Program highlights were by Dr. Morrissey, including the smallpox vaccination program, the Public Health Information Exchange (PHIX) as part of the Health Alert Network (HAN), upgrades to the state public health laboratory, training in epidemiology, outbreak surveillance, and risk communications provided to local public health officials and video conferencing equipment purchased by to enable KDHE to conduct training sessions. He noted that a toll-free telephone hotline had been established for 24/7 disease reporting, and high-speed Internet connections are being provided to one-third of the county health departments through HAN with funding provided by the Bioterrorism Program grant.

Dr. Morrissey updated the Committee on the Kansas Hospital Bioterrorism Program and noted that \$945,000 in FFY 2002 was provided to hospital regions and in \$4.2 million in FFY 2003, will be provided directly to hospitals for implementation steps to improve surge capacity. He explained that the program adopted the same regions used for the State Trauma Program the Kansas Hospital, and included a map of the six regions. Dr. Morrissey stated that the Public Health Bioterrorism Program did not have a requirement for regional planning and development, but the large number of small health departments necessitated an approach that would foster shared planning and a mechanism for sharing resources. He stated that approximately \$800,000 was made available in incentive grants to local health departments that participated in a regional collaboration, and 104 out of 105 counties chose to participate in one of the 15 regional groupings that were developed. A map of the 15 local health department regions was also included in his written testimony. Dr. Morrissey also furnished information on the HRSA Bioterrorism Hospital Cooperative Agreement which summarized the planned activity by established federal priority areas.

Co-Chairman Tafanelli asked for clarification on the surge capacity at the labs. Dr. Morrissey remarked that there was a Laboratory Response Network that has protocol in place, and KDHE is linked into the National Laboratory Response Network. When KDHE's lab predicts that they would be unable to handle the load and/or there is a benefit to having a regional or different access as well as additional capacity, the Laboratory Response Network would possibly link up with a number of local labs to provide backup in the case of surge capacity. Co-Chairman Tafanelli inquired if the video conferencing communication used during an event was secured or non-secured. Dr. Morrissey believed it was non-secured, and that resources had not been committed to making it secure.

Dr. Morrissey provided further information on a list of bioterrorism agents/diseases including category definitions, and an article by the Institute of Medicine (IOM) entitled "Microbial Threats to Health: Emergence, Detection, and Response." The article includes 13 significant factors which account for new or enhanced microbial threats and the key recommendations of the Committee made up of wide-ranging specialists that wrote the article for the IOM. Dr. Morrissey concluded by stating that KDHE has implemented the expanded prevention and control measures recommended by the IOM Committee, but more has to be done before the Kansas public health infrastructure will be fully ready to respond to known threats and those yet to occur.

Committee questions and discussion continued relating to clarifying the approval process for the counties and local health departments, and how the state has distributed the federal grant moneys thus far.

Senator Barone inquired if it was fair to state that the definition of a "terrorism threat" is being utilized to fix problems that should have been addressed earlier. Dr. Morrissey replied affirmatively, especially in the public health system.

Representative Carlin questioned if there were continuing problems with communication between different agencies and a lack of equipment available. Dr. Morrissey replied that KDHE's focus has been on establishing a communication system between the state health department, local health departments, hospitals, and other entities such as emergency management and law enforcement. He noted that the system KDHE has developed may not be the most effective way to provide interoperability with emergency management and law enforcement entities. It is a satellite based system tying all 105 county health departments with 24/7 pager, fax, and secure email system into that .

Committee questions and discussion continued relating to how quarantines are implemented, and where Homeland Security funds are distributed in relationship to the state budget. Dr. Morrissey responded that there are federal guidelines for these funds which specifically prohibit supplanting.

Co-Chairman Tapanelli called upon John Douglass, Chief of Police, Overland Park Police Department, to discuss the Open Records and Meeting Act. Mr. Douglass informed the Committee that police departments all across the country began preparations for the possibility of terrorist attacks, and the Overland Park Police Department made detailed preparations both to maintain the security of the city through pre-emptive investigation efforts.

Dr. Douglass explained that the plans so detailed and comprehensive, and recognized that the information could not be shared with the elected officials without doing so in a public meeting. Mr. Douglass remarked that it was readily apparent that the Open Meetings and Records Act should be amended to allow vital review by elected public officials of sensitive and restricted public safety information as it pertains to Homeland Security and defense issues in Executive Session. He stated that the City of Overland Park respectfully requested that the Kansas Security Committee recommend the introduction of legislation to the 2004 Legislature to make these changes (Attachment 3).

Committee discussion involved the difference between the Kansas Security Committee hearing security plans in Closed Session as opposed to local governments.

Sandra Jacquot, League of Kansas Municipalities (LKM), spoke briefly in support of the City of Overland Park's requested amendment, and stated that the law needed to be clarified and broadened. She voted that LKM believes it is necessary to balance the need for public knowledge against the need for local governments to be able to provide the security of their citizens, without concern that security planning must be done in view of the public (Attachment 4).

After brief discussion and questions, Co-Chairman Tapanelli called upon Gary Middleton to testify for the Kansas Emergency Management Association (KEMA). He stated that KEMA is on record for supporting the continuation and extension of the Open Records and Meeting Act.

Staff also passed out written testimony for the Kansas Association of Counties (Attachment 5).

Co-Chairman Tapanelli recessed the Committee at 11:45 p.m., for a lunch break to reconvene at 1:30 p.m.

Afternoon Session

Co-Chairman Tafanelli called the meeting to order at 1:30 p.m., and asked Captain Mark Bruce and Richard Hernandez to review the Office of Domestic Preparedness Grant Assessments conducted by the Kansas Highway Patrol in conjunction with E-Fm Consulting.

Captain Bruce gave a brief historical overview relative to the assessment process of the grant. He explained that access to the federal funding was contingent upon the state completing an assessment process which was originally conducted about two and a one-half years ago. The assessment was intended to confirm the state's capability as far as equipment, training, etc., as of a benchmark to determine their level and need and report it to the federal government.

Captain Bruce commented that it took the state 17 months to complete the original process which covered funding for FFY 1999 through FFY 2003. He discussed some of the problems that they experienced, including the quality of data received as one of the main factors the Highway Patrol listed as necessitating the assistance of a consulting firm to ensure that the data submitted accurately depicts the level of the state's preparedness to respond to a weapons of mass destruction (WMD) incident. He added that the current assessment process will cover the funding availability, starting FFY 2004, and cover a two-or three-year period. Captain Bruce then introduced Richard Hernandez, representing E-Fm Consulting, to give the presentation on the current assessment being conducted.

Mr. Hernandez informed the Committee that E-Fm's task was to coordinate the assessment for all 105 counties, and provide background data for the Highway Patrol to complete the state portion of the assessment. He explained that the Kansas State Homeland Security Assessment and Strategy Update (SHSAS) was established in 1999, and is administered by the Office of Domestic Preparedness (ODP), otherwise known as the ODP Assessment. He remarked that funding is distributed by the State and Local Technical Assistance Program (LTAP), and provides direct assistance to state and local jurisdictions to enhance their capacity and preparedness to respond to weapons of mass destruction WMD events.

Mr. Hernandez provided the Committee with the definition of a WMD, as defined in Title 18 U.S.C. 2332a, which could be any explosive, incendiary, bomb, rocket, missile, mine, or similar item, poison gas, weapon with disease organism, or weapon with radiation release. Mr. Hernandez discussed the changes in the update from the 1999 assessment, and the development of five categories that are WMD's: chemical, biological, radiological, nuclear, and explosive CBRNE. He noted that the Kansas Highway Patrol, County Emergency Managers, and the E-Fm Consulting were the participants in completing the assessment update.

Mr. Hernandez talked briefly about the schedule for developing and completing the assessment, and explained the ODP data entry portion, the state plan data entry, and how the data was improved over the 1999 submissions from the counties. He informed the Committee that, in completing the risk assessment and needs assessment for each county the county was to identify potential threat elements (PTE), major targets/sites, major CBRNE sources, and to assess vulnerabilities through ranking. For the needs assessment portion, each county was to identify current and needed resources, evaluate the three-year needs for training, exercises, equipment, and technical assistance, and perform a gap analysis to note shortfalls and develop a plan to fulfill the shortfall over the next three years.

He spoke briefly about the dilemma of accommodating the agriculture targets on the risk assessment, and the huge economic impact a WMD would have on one of the many feedlots in the state. He informed the Committee that Kansas was number 2 in the U.S. in the number of cattle in feedlots across the state, and is either number 1 or 2 in processing beef. Mr. Hernandez added

Kansas has a large foreign and domestic threat as it relates to feedlots within the state, and the use of a biological WMD has been studied by many groups across the state.

Mr. Hernandez added that E-Fm Consulting has assisted the counties in determining and responding to cascading events that occur as a result of a WMD situation.

As far as progress on the assessment project, Mr. Hernandez reported that all counties but one have submitted data, 54 counties have been entered into the federal data base, 41 are in progress, and the local data base was nearly fully populated. On the state side, he noted that KHP is developing the goals, mission, and objectives that are required for the ODP plan. He commented that the state is on track to submit the state roll-up required by the ODP, and added that while finalizing this portion of the assessment, county plans will be prioritized to access their risks, needs, and vulnerability.

Senator Barone asked the amount of funding Kansas would receive. Captain Bruce replied that if the assessment submitted to federal was successful, there would be \$29 million designated to Kansas in FFY 2004. Senator Barone inquired if the money was distributed to the counties based on their needs, and whether this assessment process was paid for out of the potential grant money. Captain Bruce responded that money is distributed according to the prioritized risks and needs as explained by Mr. Hernandez, and that the cost of the assessment would be paid for by administration and planning funds that are contained within the grant.

Co-Chairman Tapanelli inquired as to the basic level of capability across all counties and as resources become available the capability is increased, or are individual counties at varying levels of capability. Mr. Hernandez responded that there is a gap between more populated counties and less populated counties that do not have the training. He gave an example of counties in the southwestern part of the state that are not highly populated, but do have some of the largest feedlots in the State of Kansas. He remarked that these counties require training and that gap has been identified.

Co-Chairman Tapanelli expressed his appreciation to Captain Bruce and Mr. Hernandez for their presentation. He called the Committee's attention to the drafted minutes of the November 12, 2003 meeting which were presented by staff for approval. *Representative Shriver made a motion to approve the minutes as written, seconded by Senator Salmans, and the motion carried.*

Co-Chairman Tapanelli called for Committee discussion on the Interim Report. He asked Robert Waller to review the drafted report distributed to Committee members, and what it should contain. Mr. Waller reviewed the draft and explained what the report would contain, emphasizing the Recommendations and Conclusions section of the report. He commented that after the Committee's input is received and the recommendations and conclusions are made, the report would be redrafted and mailed to the Committee members for their review, corrections, and additions. Staff would then finalize the Interim Report and send it to the Co-Chairs and Ranking Minority member for final review and approval, and any additional changes will be made, if necessary, before it is printed in its final form by Legislative Research to be presented to the 2004 Legislature (Attachment 6).

Co-Chairman Tapanelli discussed including the issue of the first responder designation that had been questioned and discussed several times during the recent meetings; the concern of the threat assessments in the EPA regarding water quality issues and their reluctance to furnish those threat assessments to the appropriate individuals at the state level; and the tracking of the funds that are coming into the state for security issues, incorporating also how those funds are being utilized in the different agencies as they relate to Homeland Security. He asked if any other Committee members had suggested insertions for the Interim Report. Committee discussion followed, relating to those recommendations and possible legislation to be included in the report. The Committee recommends the following:

- The development of clarifying definition of the term "first responder."
- The creation and maintenance of a state-wide communication system which provides interoperability for all state agencies and local units of government which connect to the system. The committee supports the actions of the Public Safety Communications Committee (chaired by David Lake, Administrator for the Board of Emergency Medical Services) in their efforts to create such a system.
- Review and identify Homeland Security Funding received by state agencies.
- Creation of an Oversight Committee or the endorsement of the Governor's Council on Homeland Security to review and approve the distribution of Homeland Security funding by state agencies.
- Request the Legislative Coordinating Council (LCC) draft a letter to the Environmental Protection Agency (EPA) and the Kansas Congressional Delegation to address concerns relating to state access to vulnerability and threat assessments conducted on community water systems.
- Recommend the introduction of legislation to amend the Open Meetings/Records Act to allow the closure of meetings by local units of government in meeting with private industry about security measures.
- Encourage the LCC to continue the development of contingency plans for the continuity of government activities for the Legislative and Judicial branches.
- Request the LCC continue to review the issuance of key card access to registered lobbyists.

Seeing no other items to be discussed for the Interim Report, Co-Chairman Tafanelli adjourned the meeting at 3:20 p.m.

Prepared by Dee Ann Woodson
Edited by Robert Waller

Approved by Committee on:

December 22, 2003

(date)