



# CITY OF TOPEKA

CITY COUNCIL COMMITTEE  
MEETING MINUTES

## SPECIAL COMMITTEE: POLICE & COMMUNITY

CITY COUNCIL  
City Hall, 215 SE 7<sup>th</sup> Street, Suite 255  
Topeka, KS 66603-3914  
Tel: 785-368-3710  
Fax: 785-368-3958  
www.topeka.org

**Date:** November 12, 2021

**Time:** 3:00pm

**Location:** 1<sup>st</sup> floor conference room; Holliday Bldg 620 SE Madison (virtual attendance was available as well)

**Committee members present:** Councilmembers Karen Hiller, Sylvia Ortiz (Chair), Michael Padilla

**City staff present:** City Manager Brent Trout, Interim Chief Bryan Wheelles (TPD), City Attorney Amanda Stanley

### 1) Call to Order

Chairwoman Ortiz called the meeting to order at 3:00pm. Committee members introduced themselves.

### 2) Approve minutes from August 27, 2021 meeting

Committee member Hiller made a motion to approve the minutes. Committee member Padilla seconded the motion. Motion approved 3:0.

### 3) KS CPOST – Law Enforcement Certification & Related Topics

*(This presentation is available to view on the Committee's webpage:  
<https://www.topeka.org/citycouncil/police-community>)*

Kansas Commission on Peace Officers Training (KS-CPOST). Director Doug Schroder and Associate Director Michelle Meier provided the committee with a presentation.

#### Highlights:

- What KS-CPOST is.
- What KS-CPOST does not do.
- KS-CPOST Membership make-up. This is a twelve-member commission appointed by the Governor in accordance with KSA 74-5606.
- History of KS-CPOST from creation of Kansas Law Enforcement Training Act (KLETA) in 1968 to present.

- Regulation of the profession of Law Enforcement in Kansas. Certified (licensed) plus Commissioned (hired) equals a Law Enforcement Officer. KS-CPOST oversees the standards and conduct of licensing portion. KLETC oversees the training for licensing officers. Law Enforcement Agencies hire or commission the officer.
- Minimum qualifications for certification to become a law enforcement officer, KSA 74-5605(b).
- Grounds for certification action according to KSA 74-5616(b). These must be a KLETA violation, Performance Issue, or broader ethical scope.
- Graph showing the KS-CPOST investigative process.
- KS-CPOST are defenders of integrity and truth. Kansas has the authority to decertify an officer. The process of decertification was explained.
- Transparency:
  - All certification actions are public records, along with employment history, in-service training history and certification status
  - Certification actions are posted on the KS-CPOST website
  - Hearings are open to the public, subject to KAPA
  - Certification orders are now posted on the website - <https://www.kscpost.org/disdate.html>
  - Integrity Bulletin is posted on the website
- Looking Forward:
  - KS-CPOST is working on adopting new Kansas Administrative Regulations.
  - Working on legislation requiring mandatory KS-CPOST records checks.
  - Working on facilitation law enforcement in hiring process of non-certified applicants.
  - Increased outreach and communication to agencies and the public.
- Current Kansas Law Enforcement Officer Demographics were shared as a slide. Some of this information is not reflective of the true demographic, as old forms did not require the information. This will be an area that grows moving forward.

Questions/Comments:

- One of the issues we have talked about is training versus performance. Has CPOST looked at cumulative ways to measure whether an office is actually exhibiting these key performances on the street?

We do not evaluate training, as it does not fall under the authority of KS-CPOST. We have not looked at that specifically. As far as competency based, the KLETC has recently changed the curriculum to measure competency. This will also be required by the academies as well. That is for the basic training, and not responsive to the question regarding ongoing training. However there are some good ways to measure that. The Governor's Commission on Racial Equity suggested adopting some type of certification process that would look at bias. It may be a good question for the Academy, as far as measuring competencies.

- Is there something that is measuring the performance of officers in how they are dealing with the public? A key reason this committee is here is to ensure that not only is the training taking place, but that the behavior is sticking once in the field.

Director Schroder responded that there are a lot of local control and accountability that needs to take place. It may not be best to create a blanket policy to address this. KS-CPOST does not get involved with internal affairs incidents, unless it is at the request of an agency to do so, and only if it falls within KS-CPOST's scope to do so. Something such as a training act violation would be an example of such a situation where KS-CPOST could review. Associate Director Meier noted that KS-CPOST does not have the statutory authority to take action on performance issue based incidents, such as the examples described by Committee member Hiller. Associate Director Meier stated that, with regard to bias, the action KS-CPOST can take related to conduct is very specific and is set out in statute. It basically has to be an officer that takes action, or fails to take action, based on one of those protected classes. She noted that people may see officers that exhibit bias in other ways, but that in those instances, it would be at the agency level to begin the investigation process.

Chief Wheelles reminded that the complaint process, which has been reviewed before and will be reviewed again, is the initiating action for the Professional Standards Unit to open an investigation. Both the Department's and City's personnel manuals include processes for corrective action and discipline which include termination of

employment for the kind of racial bias actions, verbiage, incidents that Committee member Hiller had referenced. KS-CPOST becomes involved after the agency completes the professional standards unit (PSU) investigation, and when the department makes a “change of status” form, such as separation of employment, or resignation while under investigation, among others, and then requests the PSU file from the Department and that is when the certification piece comes into play.

- Any referrals are sent to you once an agency reaches out? Director Schroder stated that most investigations initiate from the Change of Status forms that agencies send to them. The Status Change Form must be sent to KS-CPOST within 30 days of that status change. On that form, it asks the agency to provide a narration as to why that final action was taken. If the officer is terminated, it is important to allow the officer due process.
- So, it really drills back to whether or not that local organization has set their own standards before it to even hit the KS-CPOST radar?

Director Schroder confirmed that was true for the most part. He continued that most of the investigations come from the Status Change forms, however, there is also a complaint form on the KS-CPOST website that allows any citizen to complete. Phone calls and anonymous reports are also avenues to make complaints, to start the investigations. Anonymous reports are more difficult to check into, and respond to, but it was important to have as sometimes just a small anonymous tip can help prevent some bad act.

Chief Wheelles noted the Attorney General’s office also reviews complaints for racial bias and profiling and investigates across the whole state. The Attorney General’s office also then sends those reports to KS-CPOST to begin their process.

Associate Director Meier noted that they have also received more complaints from officers about other officer conduct, and each type of complaint holds the same amount of weight. There is mandatory reporting when an officer separates. The only other sort of mandatory reporting that is discussed in the Training Act is found under the officer conduct section, and states that if an officer personally observes conduct that would be a violation of the Training Act, they are required to report that to the agency head. The Act however does not require the agency

head to report it to KS-CPOST, and Associate Director Meier believes the reason is because there are other tools that agencies can use to address this. This may be something that comes up for review in the future.

Chief Wheelles noted that current department policy requires that off-duty observation of on-duty conduct/misconduct policy be reported to the Chief's office, and that he is required, as the Chief of Police, to further report.

- If something comes up the line, for CPOST to get informed about a situation, does it need to be on the KS-CPOST list? Do we need to be sure that your list of 14 is complete?

Director Schroder stated that they do rely on, and put value on, the reporting form. That it is not only a check box, but also allows for a narrative to be included. We look through the narrative to see if there is a Training Act violation. Some policy violations are a Training Act violation, however others department policy violations.

Associate Director Meier added that there are a number of administrative actions that have been approved by the Commission to allow for taking action, where it may not have been something allowed before. The list is expanding.

- When you are working on the demographics, a suggestion would be to look at including a contemporary list of things such as gender identification, CIT certification questions, Religious or non-religious identifications.

Associate Director Meier stated that the room assignments are made based on gender, as rooms are double-bunked. There are some states where non-binary individuals are able to go through the academy without issue, and it is something that we will likely be looking at.

- Committee member Padilla had the following questions/comments:
  - Self-reporting for gender and religion on reporting forms was a subject that was brought up in the Governor's Commission on Racial Profiling; where individuals were being interviewed by officers on the street, and once the question of gender came up, they felt there was an invasion of privacy.
  - Is the information on the status change form shared with other states?

By statute, the information on the central registry data is very specific as to what data can be shared with whom, what is available under Open Records and what is not. The Status Change Form is available both to Law Enforcement agencies within Kansas, outside of Kansas and the posts of other states.

- How many other states ask?

We get a lot from Missouri and Colorado. Committee member Padilla appreciated the proactive decision to make the information available about wandering officers to the other agencies beyond state boundaries.

- With regard to the mandatory racial profiling training; there was some struggle at one time to find consistency with that training or obtaining resources to help vary the training. Is there something Chief Wheelles could provide an update on?

Chief Wheelles responded that some of the struggles with standardization still exists, however with the Topeka Police Department new and live, scenario-based training is available. This has morphed every year, and while some of the content and philosophies are the same, it is not the same training. Different instructors will teach, or are brought in, to help improve it.

- How do we react to officers who are coming to Kansas from other states? Does KS-CPOST reach out to try to get information on them?

Director Schroder stated it would start with the agencies doing their own background check. Agencies can also request access to the National Decertification Index (NDI) from KS-CPOST. Chief Wheelles added that the Topeka Police Department is on the NDI, and that the Professional Standards Unit frequently converses with, and works well with, KS-CPOST. Whatever access that they have for the backgrounds of applicants that TPD is interested in, serves as a beneficial resource.

Chairwoman Ortiz noted that a common concern shared by constituents is about addressing the issue of the “wandering officer”.

- How often does the CPOST Commission change?

Director Schroder answered that it changes from time to time, often with retirements or change to various Commissioner duties. This past year there have been two changes. Associate Director Meier stated that it sometimes goes

in cycles. The Commissioners have to meet a set statutory qualifications, if those are met, the Governor then can choose whether or not to appoint them to the position. The terms are essentially 4 years and then go back to the Governor for reappointment. They seem to go in cycles, where some years do not see much change but others see numerous changes. The Governor is able to appoint the nominees that are sent to that office, or may choose to appoint someone else of their choosing.

- Associate Director Meier circled back to a point made during the discussion of corrective action through the agency; one reason KS-CPOST does not delve into performance issues is because someone may not be a well suited Topeka Police Officer, but may perform well at a different agency with different pressures.

#### **4) Progressive Correction Action – Police Discipline Process** (video 1:31:30 minute mark)

*[This presentation can be found on the Committee's webpage].*

Interim Chief Wheelles provided a presentation to discuss the process for progressive correction action as it relates to the police discipline process. This falls in-line with some of what CPOST spoke to as well, including where their involvement falls within the City of Topeka and Topeka Police Department policies and procedures.

#### Highlights:

- Progressive Correction Action, aka Employee Disciplinary Actions:
  - Defined as proceeding step-by-step on a designated scale
  - In this context, it is an increasing level of corrective action for repeated infractions of a similar nature not serious enough to constitute just cause for termination.
  - Management guidance is outlined in TPD policy, and current Police Union collective bargaining agreement with the Fraternal Order of Police (FOP) Lodge #3.
- TPD Policy 3.8 Performance Management & Grievance Procedures
  - Corrective Action Principles & Philosophy
    - Acceptance, reporting and investigation of all employee misconduct allegations with finalized and documented disposition of the investigation.
    - Essential for enhancing and maintaining public trust.

- Preservation of organizational integrity and public safety effectiveness.
  - The purpose of all corrective action is to acknowledge issue and rectify future occurrences of unacceptable and prohibited behavior.
- Consistency & Fairness are essential managerial elements in this process.
  - Consistency = Holding everyone similarly accountable for similar unacceptable behavior.
  - Fairness = Understanding the circumstances that contributed to the behavior and applying consequences in a way that reflects this understanding.
  - Factors to be considered:
    - Employee Experience (time of service, career path, specialized skills/training)
    - Employee Motivation (legitimate police purpose vs. personal interest)
    - Intentional vs. Unintentional errors
    - Degree of Harm (monetary cost, personal injury, property damage, impact on public's confidence/trust)
    - Employee's past corrective action history
- In-bureau corrective actions are the responsibility of the assigned supervisor to complete the investigation and make recommendations to Command-level on corrective action. This is one step of the due-process.
- The recommended corrective action must be reasonable, impartial, and consistent. Reviewed and approved by appropriate chain of command to include senior Command Staff &/or Chief of Police.
- Citizen complaints of police misconduct or inappropriate behavior (on duty or off duty) are investigated by the Professional Standards Unit (PSU). The law enforcement career field has a great deal of personnel rules of conduct that applies to off duty conduct just as much as with on duty conduct.
- PSU Administrative Investigators require Chief of Police approval. More serious levels of alleged misconduct or performance; on duty or off duty.
- Formalized Corrective Actions



- Copies of all corrective documents are required to be provided to the employee and to the official personnel file that is kept by the City's Human Resources Department.
- Suspension days may go from 1-15 days
  - SGT have authority to issue up to 3 days
  - LT have authority to issue up to 5 days
  - CPT have authority to issue up to 10 days
  - MAJ have authority to issue up to 15 days
  - Deputy Chief and the Chief has authority to issue any amount of suspension including termination requests.
- Senior Staff approval of all suspension days, to include Chief consultation.
- Chief has final authority and responsibility for all department corrective actions.
- Grievance appeal process is available within 7 days of receipt of corrective action forms for all levels.

Question/Comment:

- Does the employee sign the corrective documents form?  
Yes. The employee does as does the supervisor. When they come through the Chief of Police's office, they are initialed, which occurs prior to being served. When the documents are actually served to the employee, the employee signs, the supervisor signs, and in some cases where there is Fraternal Order of Police (FOP) representation, they will sign as well.
- When complaints are received, how quickly are the complainants notified of the status of the complaint?  
They are provided an estimated timeline of how long the process will take, and they are provided with a final outcome. There are some instances where feedback is provided along the way.
- On policies, how are new policies disseminated to the officers? Do they have to acknowledge receipt of the change?  
The internal policy updates are sent to employees via Power DMS system. This system will give an automatic notification to the employee that there is a new policy to review. The employee has roughly 7-10 days to review and sign the policy. The supervisor and Chief, if the employee has not signed the documentation after that time, will be automatically notified. Employees have to sign the form, electronically, once they have read the policy. These signatures also come with a date stamp.

- Committee member Hiller would like to have more conversation at the next meeting about the use of vacation time being used as an alternative to leave of absence in place of suspension without pay leave.
- Committee member Hiller noted the numerous processes of moving things up the chain of command and wondered about being able to expedite the process by removing some of those steps.

## **5) Adjourn**

Chairwoman Ortiz adjourned the meeting at 5:03pm.

Meeting recording can be found at: <https://youtu.be/BfawGVitdgo>