Approved 5-2-91
Date

MINUTES OF THE House COMMITTEE ON Judiciary.

The meeting was called to order by Representative John M. Solbach
Chairperson at

12:45 ~~x~~m./p.m. on March 29, 1991 in room 313-S of the Capitol.
(Upon first adjournment of the House)
All members were present except:

Representatives Garner, Douville, Hochhauser, Carmody and Gregory who were excused.

Committee staff present:

Jerry Donaldson, Legislative Services
Jill Wolters, Office of Revisor of Statutes
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Juliene Maska, Statewide Victims' Rights Coordinator, Office of Attorney General
Dorothy Miller, Executive Director, Safehouse, Incorporated
Marilyn Ault, Program Director, Domestic Violence, Topeka, Ks.
Anne Smith, Director of Legislation, Kansas Association of Counties
Helen Stephens, representing the Kansas Police Officers Association
Jim Kaup, representing the League of Kansas Municipalities
Joan Strickler, Executive Director, Kansas Advocacy and Protection Services, Inc.
Senator Janis Lee
Lt. Bill Jacobs, representing the Kansas Highway Patrol
Representative Eugene L. Shore
Don Concannon, Attorney, Hugoton, Kansas
J. Russell Jennings, President of the Kansas District Magistrate Judges Association
Dennis C. Jones, representing the Kanss County and District Attorneys Association
Harry Craghead, Sheriff of Hodgeman County, Jetmore, Kansas
Tom Sullivan, Phillips County Counselor, Phillipsburg, Kansas

The Chairman called for hearing on SB 356, written policies for law enforcement officers regarding domestic violence calls.

Juliene Maska, Statewide Victims' Rights Coordinator, Office of the Attorney General, appeared in support of SB 356. (See Attachment # 1).

Committee questions followed.

Dorothy Miller, Executive Director, Safehouse, Inc., appeared in support of SB 356. (See Attachment # 2).

Committee questions followed.

Marilyn Ault, Program Director, Domestic Violence, Topeka, appeared in support of SB 356. (See Attachment # 3).

Anne Smith, Director of Legislation, Kansas Association of Counties, appeared in support of SB 356 but expressed some concern. (See Attachment # 4).

Helen Stephens, representing the Kansas Police Officers Association appeared as a proponent of SB 356, with concerns. Ms. Stephens said an interim study would be desirable; that all parties involved should meet and give input; that a concern is inconsistency in enforcement from city to city. (No written testimony was submitted.)

Committee questions followed.

Jim Kaup, representing League of Kansas Municipalities, appeared in opposition to SB 356 but proposed an amendment if the committee decides to pass the bill. See Attachment # 5). Mr. Kaup also distributed copies of "Municipal Policies on Domestic Violence". (See Attachment # 6).

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room 313-S, Statehouse, at 12:45 ~~a.m.~~/p.m. on March 29, 1991

There were no committee questions.

Written testimony in opposition to SB 356 was submitted by the Kansas Association of Chiefs of Police. (See Attachment # 7).

There being no further conferees, the hearing on SB 356 was closed.

The Chairman called for action on SB 356.

Representative Rock made a motion that SB 356 be placed in an interim study. Representative Snowbarger seconded the motion.

Representative Sebelius made a substitute conceptual motion that the effective date of the procedures that are developed will be delayed six months until January, 1992. Representative Everhart seconded the motion.

Committee discussion followed.

The motion carried.

Representative Snowbarger made a motion that SB 356 be tabled and referred to interim study. Representative Rock seconded the motion.

Representative Sebelius made a substitute motion that SB 356 be passed as amended. Representative Everhart seconded the motion.

Committee discussion followed.

Representative Sebelius withdrew her motion with the consent of her second.

Representative Macy made a substitute conceptual motion to amend SB 356 by adding a new Section 2 as suggested by Kansas League of Municipalities; strike the language to take care of mandatory arrest; and change "shall" to "may".

Representative Snowbarger seconded the motion.

Representative Sebelius requested that Representative Macy's motion be divided.

A committee member suggested waiting for further action on SB 356 until 4/2/91.

A committee member suggested appointing a sub-committee to study SB 356.

Representative Macy withdrew her motion with the consent of her second.

The Chairman called for a vote on the motion to table SB 356 and send the bill to interim study.

The motion carried.

The Chairman appointed a sub-committee to study SB 356. The sub-committee members are: Representative Everhart, Chairperson; Representative Macy; Representative Rock; Representative Vancrum and Representative Snowbarger.

The Chairman called for action on SB 299, traffic citations for purchase or consumption of alcoholic beverage by minor.

Representative Gomez made a motion that SB 299 be passed. Representative O'Neal seconded the motion. The motion carried.

The Chairman called for action on HB 2535, amendments relating to corporations, limited liability companies and limited partnerships.

MINUTES OF THE House COMMITTEE ON Judiciary,

room 313-S, Statehouse, at 12:45 ~~a.m.~~/p.m. on March 29, 1991

Representative O'Neal made a motion that HB 2535 be passed. Representative Vancrum seconded the motion. The motion carried.

The Chairman called for hearing on SB 373, access to records by developmental disabilities protection and advocacy agency.

Joan Strickler, Executive Director, Kansas Advocacy and Protective Services, Inc., appeared in support of SB 373. (See Attachment # 8).

There were no committee questions.

There being no further conferees, the hearing on SB 373 was closed.

The Chairman called for hearing on HB 2604, repealer, requirement of at least one judge in each county.

Senator Janis Lee appeared in opposition to HB 2604. Senator Lee stressed that a judge is needed in each county. (No written testimony was submitted.)

There were no committee questions.

The Chairman suspended the hearing on HB 2604 for a few minutes in order to take testimony from Senator Lee on SB 354.

The Chairman called for hearing on SB 354, nonresident motorist to be taken in front of judge for failure to give bond.

Senator Lee appeared and reviewed intent of SB 354. Senator Lee said she supports the bill; that if further study of the bill is necessary, that meets with her approval; that the issue of liability may need to be studied. (No written testimony was submitted.)

There were no committee questions.

Lt. Bill Jacobs, representing the Kansas Highway Patrol, appeared in support of SB 354 but noted concern with the bond requirement and asked how he could incarcerate someone, if a judge and court were unavailable when the traffic violater was brought in, if the offense was non-jailable to begin with. Lt. Jacobs asked that the issue be studied further and possibly request an Attorney General's opinion.

There were no committee questions.

There being no further conferees, the hearing on SB 354 was closed.

The Chairman resumed the hearing on HB 2604.

Representative Eugene L. Shore appeared in opposition to HB 2604. (See Attachment # 9).

Committee questions followed.

Don Concannon, Attorney, Hugoton, Kansas, appeared in opposition to HB 2604. (See Attachment # 10). Mr. Concannon presented petitions signed by citizens of Stevens, Morton, Grant, Stanton, Haskell, and Seward Counties.

Committee questions followed.

J. Russell Jennings, President of the Kansas District Magistrate Judges Association, appeared in opposition to HB 2604. (See Attachment # 11).

Committee questions followed.

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room 313-S, Statehouse, at 12:45 ~~a.m.~~/p.m. on March 29, 1991.

Dennis C. Jones, representing the Kansas County and District Attorneys Association, appeared in opposition to HB 2604. (See Attachment # 12). Mr. James also distributed copies of a resolution to committee members. (See Attachment # 13).

Committee questions followed.

Harry Craghead, Sheriff of Hodgeman County, Jetmore, Kansas, appeared in opposition to HB 2604. (See Attachment # 14).

There were no committee questions.

Tom Sullivan, Phillips County Counselor, Phillipsburg, Kansas, appeared in opposition to HB 2604. (No written testimony was furnished.) Mr. Sullivan stressed that some issues need a judge immediately and can't wait and people may get hurt.

There were no committee questions.

Helen Stephens, representing the Kansas Peace Officers Association appeared in opposition to HB 2604. (No written testimony was furnished.)

Anne Smith, Director of Legislation, Kansas Association of Counties, appeared in opposition to HB 2604. (See Attachment # 15).

There were no committee questions.

Written testimony in opposition to HB 2604 was submitted by William E. Kennedy, III, Riley County Attorney. (See Attachment # 16).

Written testimony in opposition to HB 2604 was submitted by Jack Dalton, of Mangan Dalton, Trenkle, Rebein and Doll Chartered, Dodge City, Kansas. (See Attachment # 17).

Written testimony in opposition to HB 2604 was submitted by Craig S. Crosswhite, Hodgeman County Attorney, Jetmore, Kansas. (See Attachment # 18).

There being no further conferees, the hearing of HB 2604 was closed.

The meeting adjourned at 3:00 P.M. The next meeting is scheduled on April 1, 1991, 3:30 P.M., in room 313-S.

GUEST LIST

COMMITTEE: HOUSE JUDICIARY DATE: 3/29/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATIO
Dorothy Keller	101 E 4th Suite 214 #10 Pittsburg, Ks.	SAFEHOUSE
Meg Bunyard	101 E 4th Suite 21410 Pittsburg, Ks. 66762	Safehouse
Sherlyn Sampson	111 E. 11th. Room 144 Lawrence Ks 66044	District Crt - Dg Co.
Diana Jones	P.O. Box 798 Garden City, KS 67846	25th Judicial District
Russ Jennings	Box 111 Larkin Kansas	Kansas District Magistrate Judges Association
Joan Strickler	Manhatta	KAPS
Jim Kaup	Topeka	League of Municipalities
HARRY CRAGHEAD SR.	JETMORE KS	KANSAS SHERIFFS ASSN
Marilynn Ault	Topeka	Battered Women Task Force
Helen Stephens	PV	KPOA
Sen Janis Lee	Kensington	
Lt. BILL JACOBS	TOPEKA	KS HIGHWAY PATROL
al Singleton	Manhattan	Riley Co. Dist. Ct.
Kay Farley	Topeka	OJA
Paul Shelby	Topeka	OJA
Arlyn Leaming	Dodge City	FORD Co. SHERIFF
Jan O'Bannon	Mission Creek	NE KS Co Sheriffs
Kristy Lambert	Lawrence, KS	KU
STEVE KEARNEY	TOPEKA	MCGILL & ASSOC.
T. Mapes	TOPEKA	KHF
KAREN S. KYLE	JETMORE	ATTORNEY/BANK DIRECTOR
Jenny L Hey	Jetmore	Vice Pres of Kansas W.I.F.E
Naomi G. King	Jetmore	Chapter Pres, National Wife Delegate
Lonnie Mae Long	Jetmore	Retired Co. Treasurer
J. Ruth Sinclair	Jetmore, Ks.	Farmer
JIM CLARK	TOPEKA	KCDAA

J Frantz	P.O. Box 339	Jetmore KS	Jetmore City Council
Jim Welter	PO Box 67	HANSTON KS	Hanston - Mayor
Lewis D. Webster	P.O. Box 694	Jetmore, Ks	Chmn. Hodgeman Co. Commission
Otto G. Popp	Route 1 Box 37	Wilson	Ness County Comm.
Paul D Pauls	RR#1 Box 90	Brownell	Ness County Comm
Bill Kramer	Box 731	Cimarron	Gray Co Sheriff
Lloyd Mintz	Box 308	Ft Carson	Ft Carson, Colorado
Jim Darby	1408 KS.	Gt. Bend, KS	BTCo Sheriff
Linda Rupp	608 E Cedar	Ness City	Para-professional / Special Education
Pamela Pauls	RR 1 Box 90	Brownell, KS	RN. Director of Nursing
Thomas H. Sullivan	PO Box 571	Phillipsburg Ks	Attorney

STATE OF KANSAS

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Testimony of
Juliene A. Maska
Statewide Victims' Rights Coordinator
Before the House Judiciary Committee
RE: Senate Bill 356
March 29, 1991

Attorney General Bob Stephan has asked that I speak to you today about Senate Bill 356.

In February 1988, Attorney General Stephan formed a 50-member Victims' Rights Task Force. The purpose of the task force was and still is to insure that the rights and needs of Kansas crime victims are not neglected. The Victims' Rights Task Force continues to address the issues concerning crime victims. The task force asked that Senate Bill 356 be introduced and seeks your support. This bill would further enhance the rights of crime victims.

Senate Bill 356 would require law enforcement agencies to adopt written policies for responding to domestic violence calls. This bill outlines a minimum number of procedures which all officers should follow.

Domestic violence affects three to four million women each year. Victims of domestic violence who call for help from law enforcement agencies are often treated differently

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than other victims of similar crimes. Litigation against law enforcement agencies has been widespread in recent years by victims of domestic violence. In Watson vs. Kansas City, a victim brought civil damages against the city, alleging that as a domestic violence victim, she was treated differently than victims involved in similar types of crimes. The victim established that when there was a known perpetrator in non-domestic assault crimes, there was an arrest rate of 31 percent. However, in domestic assault cases for the same time frame, there was only an arrest rate of 16 percent. The court ruled that victims of domestic violence were afforded less protection than non-domestic victims.

This bill would require all officers to develop procedures for responding to domestic violence calls. In a 19-page position paper entitled Managing the Risk of Municipal Liability, prepared by Steve Schwarm, Special Assistant Attorney General, he states "... should a policy be adopted which would be viewed as guidelines or should law enforcement officers operate based on their discretion, guidelines would make the Kansas Tort Claims Act unavoidable as a defense. Guidelines provide officers with an across-the-board application based on the status of the crime involved and not the status of the crime participants."

This bill states that all law enforcement agencies shall have written policies. While state law enforcement agencies may not have the same responsibilities as outlined in this

bill, state officers should be directed to follow the procedures in the jurisdiction they are in. Training on responding to domestic violence victims and offenders is also needed. Also, if the state agency receives the initial call on a domestic disturbance, it should have procedures to follow in responding to the call.

The Attorney General and his Victims' Rights Task Force ask for your support of Senate Bill 356.

"Helping People Help Themselves"

SAFEHOUSE, Inc. Est. 1979

NATIONAL BANK BUILDING • 101E. 4TH, SUITE 214 • PITTSBURG, KANSAS 66762-4851

Executive Director
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SHARON MOREY

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Parsons

Testimony before the House Judiciary Committee

March 29, 1991

Re: SB 356

SAFEHOUSE wishes to express appreciation for the protection of victims of domestic violence encompassed in SB 356. Legal protection of these victims is well worth acting upon, because they currently do not have the protection they need. Browne and Williams, in their article "Resource Availability for Women at Risk" reported that an in-depth study of all one-on-one murder and non-negligent manslaughter cases from 1980-84 found that more than one-half (52%) of female victims were killed by their male partners. In the book The Abusive Partner, 1982, M. Roy writes "Violence will occur at least once in two-thirds of all marriages." And C. Everett Koop, the former surgeon general, shocked many in medical professions as well as others when he announced "Battery is the single most significant cause of injury to women in this country."

A second compelling fact is that, when such a victim attempts to seek legal recourse, she is often led to believe that there is none available. She is often told, since she was hit by her husband, there is nothing anyone can do to legally hold him accountable. Standard operating procedures for handling domestic violence criminal assaults remain vague or nonexistent for many rural law enforcement agencies. In the 12-county area we serve, only two law enforcement agencies have known written policies for domestic violence cases. Currently, many victims hear different instructions from various officers at different times. This is not only confusing for the victim, but for those of us trying to help her. We can tell the victim she has rights, and if her abuser breaks into her home and beats her up she can call law enforcement and, if there is enough evidence, her abuser can be charged. Unfortunately, many are then told by the responding officer that an arrest cannot be made, and if she wants charges pressed, she will need to follow up on it in the morning; refusing to take a statement at that time. Then, in the morning, they are questioned as to why they didn't pursue the issue the night before.

The present system allows the perpetrator to know that he can continue to abuse her without any serious consequence. An important part of SB 356 is having this written policy include

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arrest when there is probable cause that such a crime occured. This gives the victim some immediate protection, and has been proven to be the most effective police response. Extensive studies show arrest provides the greatest reduction in the rate of recidivism. But perhaps most importantly, having such a written policy tells everyone; the victim, the perpetrator, the advocate, and the responding police officer, what is to happen if a crime has occured.

Those of us working in rural areas where in many cases law enforcement agencies have not yet adopted such written policies are anxious for the uniformity which this law would create. Passage of SB 356 would provide the necessary protection which is currently unavailable for many victims in Kansas today.

Thank you for considering SAFEHOUSE'S interest in the critical issue addressed in SB 356.

Dorthy Miller, LBSW
Executive Director
SAFEHOUSE, Inc.

Testimony before House Judiciary Committee
March 29, 1991

Re: SB 356

On January 3, 1990 the Community Criminal Justice Protocol for Family Violence Cases in Shawnee County was formally signed by the District Attorney, Sheriff, Police Chief and the Battered Women Task Force staff. Representatives from these agencies met periodically over the previous year to write formal, mutually agreed upon, protocol for our community that would encourage uniform procedures in domestic violence cases.

This written protocol has been a wonderful reference point when there are glitches in the system. What we have found after one year is that our agency is hearing fewer complaints from victims about how the criminal justice system is treating them. There continue to be some individual cases that are handled inappropriately but with our formalized procedure there is less confusion on the part of law enforcement officers about what they are to do and what the district attorney's staff will do in domestic battery cases.

The task of writing the protocol gave us the opportunity to improve our working relationship with other agency members and we have continued to meet periodically to problem-solve in the area of domestic violence with representatives from Topeka Police, Sheriff and District Attorney's office.

A written policy on domestic violence that clarifies responsibility of each entity enhances the standard of justice making it more uniform for victims throughout the state. Our local domestic violence program was the catalyst for the formulation of a written policy in our community. However, there are only thirty such programs in the state and it would help standardize law enforcement response to domestic violence if each community were required to have a written policy. Requiring written policies throughout the state should greatly help victims in this state receive more equitable treatment.

Respectfully,

Marilynn Ault
Program Director

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KANSAS ASSOCIATION OF COUNTIES

"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

March 29, 1991

To: House Judiciary Committee
Chairman John Solbach

From: Anne Smith
Director of Legislation

Re: SB 356

The Kansas Association of Counties supports SB 356 but has some concerns with the bill.

With respect to the written policy requirement in the bill, it is our understanding that a number of sheriffs' departments have written policies on domestic violence already. And sheriffs' departments that do not have written policies should not have a problem getting one in place.

The concern we have with the bill regards the statement directing that the officer shall make an arrest when they have probable cause to believe a crime is being committed or has been committed. This requirement places the liability upon the arresting officer and takes away his or her discretion in making an arrest. The legal ramifications resulting from this directive could be substantial.

We ask for your careful consideration of this legislation as its impact could be formidable.

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League of Kansas Municipalities

Municipal Legislative Testimony

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on the Judiciary
FROM: Jim Kaup, League General Counsel
RE: **SB 356; Mandatory Domestic Violence Policies**
DATE: March 29, 1991

The League appears in opposition to SB 356 on the basis of our longstanding opposition to state mandates, and out of our concern for the threat of tort liability created by the bill.

I. HOME RULE.

The League's convention-adopted Statement of Municipal Policy provides, in pertinent part:

> **B-4c. State Mandated Functions. (a)** We oppose the imposition of additional state-mandated functions or activities on local governments. State-mandated programs without state funding is contrary to the spirit of constitutional home rule. Any function or activity deemed of sufficient statewide concern or priority to justify its required local performance should be financed by the state.

This opposition to state mandates was the basis for the League's opposition to HB 2330 in the 1989 and 1990 legislative sessions. That bill, like SB 356, placed mandatory duties upon local law enforcement officers in domestic violence situations. Partially in response to HB 2330, and the Kansas legislature's concern regarding domestic violence, the League increased its efforts to encourage our member cities to consider adoption of domestic violence policies for law enforcement officers. In May 1990 the League published a report, "Municipal Policies on Domestic Violence", which was distributed to most of our member cities, and summarized that report in the Kansas Government Journal.

The League's convention-adopted Statement of Municipal Policy was also specifically amended to reflect society's growing concern over domestic violence:

> **G-6. Domestic Violence.** Municipalities should adopt written policies stipulating that domestic violence will be treated as other battery and assault cases, including a specific policy concerning how to handle domestic violence cases when probable cause exists for arrest.

II. TORT LIABILITY UNDER THE RULE IN FUDGE v. KANSAS CITY

The League's opposition to SB 356 is based not only upon the basic philosophical objection to state mandates upon the performance of local law enforcement. The League would also call to this Committee's attention the serious consequences for tort liability which could result from enactment of SB 356, in situations where a law enforcement agency fails to comply with its provisions. Tort liability would also exist where an agency has adopted "written

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policies regarding domestic violence calls", but the responding law enforcement officers do not comply with the adopted policies.

This concern over tort liability relates back to the 1986 Kansas Supreme Court decision in Fudge v. City of Kansas City, 239 Kan. 369. In Fudge, the Supreme Court dealt with the public duty doctrine--the tort concept of no governmental liability absent a special duty to act. The Court noted that police officers have a duty to the public at-large rather than to any individual citizen, but where the police are subject to guidelines or owe a specific duty to an individual, the public duty doctrine does not apply and the police owe a special duty accordingly. In Fudge, the Court adopted the Restatement of Torts, Section 324A, which provides in part: "One who undertakes...to render services to another which he should recognize as necessary for the protection of a third party...is subject to liability to the third party for physical harm resulting from failure to exercise reasonable care to protect his undertaking, if (a) his failure to exercise reasonable care increases the risk of such harm..."

In Fudge, the Kansas City police department had a standard operating procedure manual which set out mandatory procedures for handling a variety of police situations. One of those situations involved handling intoxicated individuals. Specifically, that order stated, in part, "an individual...who is incapacitated by alcohol...will be taken into protective custody...". The existence of that procedural requirement lead the Court to conclude that the city's police officers had a duty to take intoxicated drivers into protective custody. The Court stated that a police officer should realize that taking an intoxicated driver into protective custody is necessary for the protection of third parties. "Their failure to do so significantly increased the risk that (the intoxicated driver) would cause physical harm to others." Therefore, once having established a special duty to take an intoxicated person into protective custody, they were able to extend this special duty to a deceased plaintiff who was killed in an automobile accident caused by an intoxicated driver. It was the Kansas Supreme Court's holding that the failure to enforce the law, in this case the police department's own mandatory arrest guidelines, created a special duty owed by the police to a third party who suffered injury because of that failure to follow the department's general order.

Legislature's 1987 Response to Fudge. As a final note regarding the potential for Fudge-type tort liability arising from SB 356, the League would note the 1987 Kansas Legislature's amendment to K.S.A. 75-6104(d) of the Kansas Tort Claims Act. While that amendment was in response to Fudge, the League does not believe that the 1987-passed amendment would be adequate to protect a municipality from tort liability in claims arising from the alleged failure to comply with the mandates of SB 356.

Mandatory Duty to Arrest. Finally, the League notes the fact that there are very few provisions in state law where a law enforcement officer is mandated to place an individual under arrest. The general rule is that law enforcement officers are given discretion as to whether persons should be arrested for their conduct, regardless of whether that conduct constitutes a felony or misdemeanor, and regardless of whether the conduct occurred in the officer's presence. SB 356 represents a rather dramatic departure from that longstanding state policy.

Action Requested. The League respectfully asks this Committee to not take favorable action on SB 356. However, if it is your decision to report the bill favorably, the League would ask the Committee's consideration of an amendment to SB 356 similar to that now found at K.S.A. Supp. 75-6104 (d) of the Kansas Tort Claims Act. The amendment would provide that SB 356 is not an abrogation of the public duty doctrine--that no special duty of care is created by SB 356. The amendment reads:

> "Sec. 2. No law enforcement agency or employee of such agency acting within the scope of employment shall be liable for damages resulting from the adoption or enforcement of any policy adopted under this act unless a duty of care, independent of such policy, is owed to the specific individual injured."

Municipal Policies

On

Domestic Violence

League of Kansas Municipalities

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Municipal Policies on Domestic Violence

Table of Contents

League of Kansas Municipalities
112 West Seventh Street
Topeka, Kansas 66603

May, 1990
Price $5.00

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PART I

Introduction

Domestic violence, sometimes euphemistically called "family disturbances", has long been a human and social problem. Accurate statistics are not available on whether incidents of domestic violence have increased, or simply become more known and visible in recent years. Whether it is a new problem or not, domestic violence has received increased public attention in recent years. One result of this increased attention has been the adoption of written policies and procedures to be followed by law enforcement officers when dealing with assault and battery and other incidents generally called domestic violence.

A recent League survey indicated that about 60 Kansas cities have official policies for domestic violence situations, typically issued by order or direction of the chief of police--see Research/Information Bulletin No. 523. This report reproduces the domestic violence policies of the cities of Americus, Edgerton, Gardner, Hesston, Lansing, Newton, Oswego, Shawnee, Stafford, Wamego, Wichita and Winfield as well as Shawnee County.

The League had originally planned to develop a model policy statement on this matter, in cooperation with the Kansas Association of Chiefs of Police and the Kansas City Attorneys Association. However, the collection of sample policies from a number of cities resulted in the conclusion that the development of a model to fit all local situations would be extremely difficult. Further, the publication of sample policies from a number of cities which vary in geographic area and in population size, was thought to be more useful than preparing a single model.

Most of the policies in this report have been adopted since mid-1988. Some of them were issued in the form of sections or chapters of police department manuals or handbooks, while others were issued as special orders or directives. Some of them are "localized", to the extent they are responsive to county or area coordinated efforts. For example, a number of Johnson County cities have domestic violence policies as a result of a study and recommendations made by the Citizens Commission on Family Violence, adopted September 6, 1988.

The statements included in this report are intended to be illustrative of local policies. The statements of some cities are not included since they are comparable to the included statement of another city. For example, the statement of Roeland Park is similar to the statement of Gardner. The Ulysses police department procedure is similar to the Winfield statement published herein.

Other statements collected by the League, but excluded from this report, include the following: Leawood's "Response to Domestic Violence/Abuse", issued October 25, 1988; Concordia's rules on "Domestic Violence", issued September 22, 1988; El Dorado's police department manual section on "Domestic Violence", issued July 1, 1988 and Independence's general order on "Domestic Violence", effective March 1, 1989. It should be noted that the statement of El Dorado and a few other Kansas cities are somewhat similar to a model domestic violence policy issued by the International Association of Chiefs of Police and published in the April 1988 issue of "The Police Chief".

Why Adopt a Policy on Domestic Violence?

Adoption of, and adherence to, a law enforcement response policy to domestic violence calls may help reduce the likelihood of legal liability for a city in lawsuits alleging "failure to protect" the victim of domestic violence. Along with heightened public awareness of the occurrence of domestic violence have come lawsuits and judgments against police departments because of the manner in

which they respond, or fail to respond, to incidents. A number of courts across the country have found that the policy or practice a police department follows when responding to domestic violence calls violates constitutionally-protected rights of the victim, and thereby creates legal liability against the city. Given this trend in the courts, cities have a clear financial stake in this issue, notwithstanding the public safety interests, and are urged to discuss the subject of domestic violence policies with their city attorneys.

A 1990 amendment by the Kansas legislature to the Kansas Protection From Abuse Act, reproduced in Part II of this report, deserves special mention. That key state law, which is often used to keep a violence-prone spouse or other party away from another party by means of a district court order, had been subjected to criticism because it did not clearly provide that the violation of a court order under the act was a violation of law that would justify the arrest of a violator. The 1990 amendment provided the clear legal authority for law enforcement officers to place a person under arrest for the violation of a protection from abuse order.

PART II

KANSAS PROTECTION FROM ABUSE ACT
Reprint of Article 31 of Chapter 60 of the 1989 Supplement to the Kansas Statutes Annotated, as amended by 1990 Senate Bill No. 680

Part II reprints the Kansas Protection From Abuse Act. It is included in this report since it relates to domestic violence and is cited in some municipal domestic violence policy statements. The provisions include the amendments to the Act made by the 1990 Legislature, which take effect on July 1, 1990. These amendments are found in Senate Bill No. 680, which amends K.S.A. Supp. 60-3107 of the Protection From Abuse Act to require that protection from abuse orders issued by the district court must contain a statement that violation of the order constitutes criminal trespass, assault or battery. The significance of this amendment to the Act is that it provides clear legal authority for law enforcement officers to place a person under arrest for the violation of a protection from abuse order. Prior to SB 680 the simple violation of an order constituted contempt of court under K.S.A. 60-3110.

Article 31.—PROTECTION FROM ABUSE ACT

60-3101. Citation and construction of act. (a) K.S.A. 60-3101 through 60-3111, and amendments thereto, shall be known and may be cited as the protection from abuse act.

(b) This act shall be liberally construed to promote the protection of victims of domestic violence from bodily injury or threats of bodily injury and to facilitate access to judicial protection for the victims, whether represented by counsel or proceeding *pro se*.

History: L. 1979, ch. 92, § 1; L. 1987, ch. 228, § 1; July 1.

60-3102. "Abuse" defined. As used in this act "abuse" means the occurrence of one or more of the following acts between persons who reside together, or who formerly resided together and both parties continue to have access to the residence:

(a) Willfully attempting to cause bodily injury, or willfully or wantonly causing bodily injury.

(b) Willfully placing, by physical threat, another in fear of imminent bodily injury.

(c) Engaging in any of the following acts with a minor under 16 years of age who is not the spouse of the offender:

(1) The act of sexual intercourse.

(2) Any lewd fondling or touching of the person of either the minor or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the minor or the offender or both.

History: L. 1979, ch. 92, § 2; L. 1980, ch. 177, § 1; L. 1983, ch. 201, § 1; L. 1987, ch. 228, § 2; July 1.

60-3104. Commencement of proceedings; no docket fee; forms. (a) A person may seek relief under this act or any parent of or adult residing with a minor child may seek relief under this act on behalf of the minor child by filing a verified petition with any district judge of the judicial district or with the clerk of the court, alleging abuse by another with whom the person or child resides. No docket fee shall be required for proceedings under this act.

(b) The clerk of the court shall supply the forms for the petition and orders, which shall be prescribed by the supreme court.

History: L. 1979, ch. 92, § 4; L. 1980, ch. 177, § 3; L. 1983, ch. 201, § 3; L. 1986, ch. 115, § 96; L. 1987, ch. 228, § 3; July 1.

60-3105. Emergency relief. (a) When the court is unavailable, a verified petition, accompanied by a proposed order, may be presented to any district judge of the judicial district. The judge may grant relief in accordance with subsection (a)(1), (2), (4) or (5) of K.S.A. 60-3107 and amendments thereto, or any combination thereof, if the judge deems it necessary to protect the plaintiff or minor child or children from abuse. An emergency order pursuant to this subsection may be granted *ex parte*. Immediate and present danger of abuse to the plaintiff or minor child or children shall constitute good cause for the entry of the emergency order.

(b) An emergency order issued under subsection (a) shall expire when the court is available or within 72 hours, whichever occurs first. At that time, the plaintiff may seek a temporary order from the court.

(c) The judge shall note on the petition and any order granted, including any documentation in support thereof, the filing date, together with the judge's signature, and shall deliver them to the clerk of the court on the next day of the resumption of business of the court.

History: L. 1979, ch. 92, § 5; L. 1980, ch. [illegible], § 4; L. 1986, ch. 115, § 97; L. 1987, ch. [illegible], § 4; July 1.

60-3106. Hearings; temporary orders pending hearing. (a) Within 20 days of the filing of a petition under this act a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence and the defendant shall have an opportunity to present evidence on the defendant's behalf. Upon the filing of the petition, the court shall set the case for hearing. At the hearing, the court shall advise the parties of the right to be represented by counsel.

(b) Prior to the hearing on the petition and upon a finding of good cause shown, the court on motion of a party may enter such temporary relief orders in accordance with subsection (a)(1), (2), (4) or (5) of K.S.A. 60-3107 and amendments thereto, or any combination thereof, as it deems necessary to protect the plaintiff or minor children from abuse. Temporary orders may be granted *ex parte*. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

History: L. 1979, ch. 92, § 6; L. 1980, ch. 177, § 5; L. 1987, ch. 228, § 5; July 1.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1989 Supp. 60-3107 is hereby amended to read as follows: 60-3107. (a) The court shall be empowered to approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children or grant any of the following orders:

(1) Restraining the parties from abusing, molesting or interfering with the privacy or rights of each other or of any minor children of the parties. *Such order shall contain a statement that if such order is violated, such violation may constitute assault as provided in K.S.A. 21-3408, and amendments thereto, or battery as provided in K.S.A. 21-3412, and amendments thereto.*

(2) Granting possession of the residence or household to a party to the exclusion of the other party, and further restraining the party not granted possession from entering or remaining upon or in such residence or household, subject to the limitation of subsection (c). *Such order shall contain a statement that if such order is violated, such violation shall constitute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and amendments thereto.*

(3) Requiring a party to provide suitable, alternate housing for such party's spouse and any minor children of the parties.

(4) Awarding temporary custody and establishing temporary visitation rights with regard to minor children.

(5) Ordering a law enforcement officer to evict a party from the residence or household.

(6) Ordering support payments by a party for the support of a party's minor child or a party's spouse. Such support payments shall expire six months after the date of issuance. On the motion of the plaintiff, the court may extend the effect of such order an additional six months.

(7) Awarding costs and attorney fees to either party.

(8) Making provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property, if necessary.

(9) Requiring the parties to seek counseling to aid in the cessation of abuse.

(b) If, within the period that an order of support issued p[illegible] to subsection (a)(6) is in existence, a party files a petition for [illegible] separate maintenance or annulment and an application for temp[illegible]y support pursuant to K.S.A. 60-1601 *et seq.*, and amendments thereto, the order of support shall continue in effect until an order is issued on the application for temporary support or until such earlier time as ordered by the court on motion of either party at any time for good cause shown. If a party has previously commenced an action for divorce, separate maintenance or annulment prior to commencement of an action under this act, the court may enter, pursuant to this act, an order inconsistent with the order previously entered in the divorce, separate maintenance or annulment proceeding. If an inconsistent order is entered pursuant to this act, the order previously entered in the other proceeding shall be vacated upon motion in the proceeding pursuant to this act.

(c) If the parties to an action under this act are not married to each other and one party owns the residence or household, the court shall not have the authority to grant possession of the residence or household under subsection (a)(2) to the exclusion of the party who owns it.

(d) Subject to the provisions of subsections (b) and (c), a protection order or approved consent agreement shall remain in effect until modified or dismissed by the court and shall be for a fixed period of time not to exceed one year, except that, on motion of the plaintiff, such period may be extended for one additional year.

(e) The court may amend its order or agreement at any time upon motion filed by either party.

(f) No order or agreement under this act shall in any manner affect title to any real property.

(g) If a person enters or remains on premises or property violating an order issued pursuant to subsection (a)(2), such violation shall constitute criminal trespass as provided in subsection (c) of K.S.A. 21-3721, and amendments thereto. If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to subsection (a)(1), such violation may constitute assault as provided in K.S.A. 21-3408, and amendments thereto, or battery as provided in K.S.A. 21-3412, and amendments thereto.

PART III

Sample Municipal Policies

AMERICUS
Policy for Domestic Violence

Definitions:

Domestic Violence or Family Violence includes spouse abuse, child abuse, elderly abuse and handicapped abuse. It is any harmful physical contact or threat of harmful contact between family or household members or unmarried couples as a method of coercion, control, revenge or punishment.

Family or Household Members means spouses, former spouses, persons related by blood/adoption and persons who are presently residing together or who have resided together in the past and persons who have a child in common regardless of whether they have been married or have lived together at anytime.

Unmarried couples means persons who are or who have in the past been involved in an ongoing, intimate relationship.

Offenses:

Offenses which could be chargeable in domestic violence/abuse cases:

1.	Assault	Misdemeanor	K.S.A. 21-3408
2.	Aggravated Assault	Felony	K.S.A. 21-3410
3.	Battery	Misdemeanor	K.S.A. 21-3412
4.	Aggravated Battery	Felony	K.S.A. 21-3414
5.	Harassment by Telephone	Misdemeanor	K.S.A. 21-4113
6.	Terroristic Threat	Felony	K.S.A. 21-3419
7.	Criminal Trespass	Misdemeanor	K.S.A. 21-3721
8.	Obstructing Legal Process	Misdemeanor	K.S.A. 21-3808
9.	Rape	Felony	K.S.A. 21-3502
10.	Homicide	Felony	K.S.A. 21-3401 K.S.A. 21-3405a

Responses:

1. Prompt attention shall be given to domestic violence cases. Written police reports and a written statement from the victim (if applicable) should be completed in detail as soon as possible.

2. Arrest shall be an appropriate response where there is probable cause that a crime occurred in violation of city ordinance or state law involving injuries to the victim, use or threatened use of violence, violation of a protective court order (PFA) or other imminent danger to the victim. Our primary responsibility and concern is the victim's welfare. The police should be the affiant of the complaint for arrest.

3. Victims should be informed of their rights and their options:
   a. The right to be protected.
   b. The right to seek criminal charges against the abuser.
   c. The right to services of shelter and court protection order (PFA).
   d. A written, dated report of the incident and circumstances should be written (longhand) by reporting officer and a copy made available for: City file and victim.
   e. Prompt enforcement of violation of court protective orders. Make a determination based on your investigation if a crime has been committed pursuant to the PFA. If the elements of a crime are fulfilled, i.e., criminal trespass, assault, battery or any threat of violence has occurred, promptly effect an arrest. If the suspect is not at the scene, obtain an arrest warrant and effect an arrest as soon as possible.

EDGERTON
Policy Directive on Domestic Violence

This policy has been formulated and initiated in order to provide departmental personnel with guidelines on how to handle domestic violence situations.

Definitions:

Domestic Violence: Any harmful physical contact or threat of harmful contact between family or household members or unmarried couples as a method of coercion, control, revenge or punishment.

Family or Household Member: Includes spouses, former spouses, persons related by blood; and persons presently residing together or who have resided together in the past and persons who have a child in common, regardless of whether they have been married or have lived together at any time.

Mutual Combat: A forcible encounter between two or more persons into which both parties enter willingly or voluntarily. It implies a common intent to fight but not necessarily an exchange of blows.

Unmarried Couple: Includes persons who are, or have been in the past, involved in an ongoing intimate relationship.

Purpose:

A. The purpose of this policy directive is to promote the protection of the domestic violence victim, to deter the defendant from committing continued acts of violence, and to create a general deterrent in the community toward violence. This policy directive has been formulated to help the police officer recognize that appropriate arrest and subsequent services provided through the district attorney's office can be beneficial for the victim, defendant, law enforcement officers and the community.

B. The Johnson County District Attorney's Office has encouraged all law enforcement agencies to arrest an assailant when there is probable cause to believe a crime has occurred, whether it is a misdemeanor or a felony.

C. The following offenses may be chargeable in domestic violence cases:

1. Battery	K.S.A. 21-3412
2. Aggravated Battery	K.S.A. 21-3414
3. Assault	K.S.A. 21-3408
4. Aggravated Assault	K.S.A. 21-3410
5. Rape	K.S.A. 21-3502
6. Terroristic Threat	K.S.A. 21-3419
7. Harassment by Telephone	K.S.A. 21-4113
8. Homicide	K.S.A. 21-3401/21-3405a
9. Criminal Trespass	K.S.A. 21-3721
10. Obstructing Legal Process	K.S.A. 21-3808

Policy:

Whenever officers respond to a domestic violence situation, they will investigate the situation thoroughly in order to determine the appropriate response to be taken.

Procedure:

In all domestic violence situations the officer will:

A. Assess the situation:

1. If the victim sustains any obvious and visible injuries, photographs will be taken.

2. The investigating officer must be observant of all minor children at the scene. The officer will note any signs of child abuse and take the appropriate action if the children have been physically or sexually abused.

3. The officer will provide the victim an adult abuse information sheet prior to leaving the scene including information about the Adult Protection From Abuse Act.

4. All cases will be handled through the district attorney's office.

B. Determine the type of action to be taken:

1. If a victim indicates a willingness to prosecute, an arrest will be made if the defendant is present.

2. If a victim indicates he or she is not willing to prosecute and the defendant is present, the on call assistant district attorney will be contacted if the victim has sustained injuries as a result of a misdemeanor offense, or is the victim of a felony crime. If the offense is a simple battery and there are no obvious or apparent injuries, the report should be submitted to the district attorney's office the next working day.

3. If the defendant is not present, the officer will prepare the necessary paperwork for presentation to the district attorney's office for review.

4. If it is the officer's opinion, after a thorough investigation, that the situation is an obvious mutual combat and it is apparent there are no injuries or no felony crime has been committed, the reports will be submitted to the district attorney's office the next working day.

C. When contacting the assistant district attorney, the officer will make him or her aware of the facts surrounding the situation, as well as any background information known to the officer concerning the parties involved in the domestic violence situation.

Background:

This policy directive is based on information received from the Johnson County District Attorney's office and Law Enforcement/Prosecution Protocol for Family Violence cases, adopted September 6, 1988 by the Citizens Commission on Family Violence, Johnson County, Kansas.

GARDNER
Domestic Violence Protocol Policy

The following policy is hereby adopted for use by the officers of the Gardner Department of Public Safety. This policy is adopted after extensive development with the Johnson County Police Chiefs and the Johnson County District Attorney's Office.

Definitions

Domestic Violence: Any harmful physical contact or threat of harmful contact between family or household members of unmarried couples as a method of coercion, control, revenge or punishment.

Unmarried Couple: Includes persons who are or who have in the past been involved in an ongoing, intimate relationship.

Mutual Combat: An exchange of physical force in which both parties participate willingly or voluntarily. A thorough investigation should ensue to establish this finding. Factors to be identified include the determination of the primary physical aggressor, not necessarily the initial physical aggressor, use of self defense, nature and degree of injuries and statements made by the victim prior to the arrest. The officer must understand that while mutual combat may exist in certain domestic calls the investigation and reports must substantiate this limited finding of true mutual combat.

Purpose

A. The purpose of this policy directive is to promote protection of the domestic violence victim, to deter the defendant from continued acts of violence, and to create a general deterrent in the community toward violence. This policy directive has been formulated to help the public safety officer recognize that appropriate arrest and subsequent services provided through the district attorney's office, the criminal justice system, and social service agencies can be beneficial for the victim, defendant, law enforcement officers and the community.

B. The Johnson Count District Attorney has encouraged all law enforcement agencies to arrest an assailant when there is probably cause to believe a crime has been occurred, whether a misdemeanor or felony.

C. Offenses that may be charged in domestic violence cases include, but are not limited to, the following:

1. Battery	K.S.A. 21-3412
2. Aggravated Battery	K.S.A. 21-3414
3. Assault	K.S.A. 21-3408
4. Aggravated Assault	K.S.A. 21-3410
5. Rape	K.S.A. 21-3502
6. Terroristic Threat	K.S.A. 21-3419
7. Homicide	K.S.A. 21-3401/21-3405a
8. Obstructing Legal Process	K.S.A. 21-3808

Policy

Whenever officers respond to a domestic violence situation they will investigate the situation thoroughly in order to determine the appropriate response to be taken.

Procedure

In all domestic violence situations the officer will:

1. Restore order by separating the parties and calming them down;

2. Assess the need for medical attention and call for medical backup if indicated;

3. Interview all parties separately--victim, offender, witnesses;

4. After each person has been interviewed, as possible, decide if an arrest should be made and/or other actions taken;

5. Inform the parties that family violence is a crime that, without intervention, often increases in frequency and severity and give the victim adult abuse information;

6. Where appropriate, take color photographs of injuries and property damage. If photographs will not accurately depict the injuries, prepare a sketch showing the areas of injury;

7. Obtain a written statement, witnessed by the officer, from any victim and witnesses;

8. If you believe that probable cause has been established, arrest the suspect, contact the on-call assistant district attorney (ADA) and give a complete, concise synopsis of what you have observed and believe to have occurred;

9. In a questionable case, contact the on-call ADA prior to taking any arrest actions;

10. If authorization to book is received, proceed with the booking process. If authorization is not received, complete all reports for approval. They will be submitted to the District Attorney's Office.

11. The victim's unwillingness to sign a complaint or cooperate shall not enter into the officer's decision when establishing probable cause for arrest;

12. All domestic violence cases will be handled through the District Attorney's Office.

If the offender has left the scene and a crime has been committed, the immediate area will be checked as well as an attempt to gain information on the suspect as to where living, working, etc. Once apprehended, contact the on-call ADA to get authorization to book into county jail.

HESSTON
Policy For Domestic Violence

A. Definitions: (Identical to Americus, above).

B. Offenses:

Offenses which could be chargeable in domestic violence/abuse cases:

1.	Assault	City Ord. 661, Sec. 303	K.S.A. 21-3408
2.	Aggravated Assault		K.S.A. 21-3410
3.	Battery	City Ord. 661, Sec. 301	K.S.A. 21-3412
4.	Aggravated Battery		K.S.A. 21-3414
5.	Harassment by Telephone	City Ord. 661, Sec. 912	K.S.A. 21-4113
6.	Terroristic Threat		K.S.A. 21-3419
7.	Criminal Trespass	City Ord. 661, Sec. 607	K.S.A. 21-3721
8.	Obstructing Legal Process	City Ord. 661, Sec. 702	K.S.A. 21-3808
9.	Rape		K.S.A. 21-3502
10.	Homicide		K.S.A. 21-3401, 3405a

C. Responses:

1. Prompt attention shall be given to domestic violence cases. Written policy reports and a written statement from the victim (if applicable) should be completed in detail as soon as possible.

2. Arrest shall be an appropriate response where there is probable cause that a crime occurred in violation of city ordinance or state law involving injuries to the victim, use or threatened use of violence, violation of protective court order (PFA) or other imminent danger to the victim. Our primary responsibility and concern is the victim's welfare. The police should be the affiant of the complaint for arrest.

3. Victims should be informed of their rights and their options:

a. The right to be protected.

b. The right to seek criminal charges against the abuser.

c. The right to services of shelter and court protection order (PFA). Harvey County Victim Advocate can facilitate services.

d. Forms for obtaining orders under the Protection From Abuse Act (PFA) will be available in the squad room file drawer. After 5:00 pm, during weekends and

holidays the police officer will assist the victim in completing the PFA form. Upon completion the police officer on duty should telephonically contact a Harvey County District Court judge so arrangements can be made for the victim and the district court judge to meet and effect a temporary restraining order for 72 hours. After the judge signs the temporary restraining order the officer should make three additional copies of the restraining order. The original should be kept by the victim. Second copy of temporary PFA should be served to the assailant. Third copy is to be kept with police department.

e. Prompt enforcement of violation of court protective orders. Make a determination based on your investigation if a crime has been committed pursuant to the PFA. If the elements of a crime are fulfilled, i.e. criminal trespass, assault, battery or any threat of violence has occurred, promptly effect an arrest. If the suspect is not at the scene obtain an arrest warrant and effect an arrest as soon as possible.

LANSING
Domestic Disturbance Guidelines

The following guidelines will be utilized when handling domestic disturbance calls:

Upon receiving a call advising of a domestic disturbance, the officer receiving the call will request a back-up officer. It is preferred that the back-up officer be a Lansing officer, if available. The primary officer will respond to a location one block from the scene of the call and await the arrival of the back-up officer. Upon arrival of the back-up officer, both officers will proceed to the call location at the same time. The officers, upon arrival at the call location, will park their patrol units at a point just beyond the call location. If possible it is preferred that the patrol units be parked in opposite directions. After exiting the patrol unit the primary officer will approach the residence, looking and listening for signs of inside activity. The back-up officer approaches the residence. Standard hazardous call procedure guidelines will be utilized when approaching the call location. After being acknowledged by the participants, the officer will identify himself. If the call is at a residence, the officer will view the interior of the residence and the participants. If the scene is clear the primary officer will motion to the back-up officer to proceed to the residence. Upon making contact with the participants, the officers will determine if either participant needs medical attention. If no medical attention is immediately needed each officer will take a participant to an area out of hearing by the other participant. The officers will then determine the circumstances of the call, and gather the necessary information for the report. The officers will then determine if a participant wishes to press charges against the other. If they wish to file charges the participants will be advised of the procedures to follow to proceed with litigation. On a call, where either of the participants is in danger of continued physical abuse, refer to the New Domestic Violence Act and Misdemeanor Arrest, a copy of which is attached to this memo. Upon obtaining the statements of the participants, the officers will then consult with each other about the statements and determine a course of action. The officers will then bring the participants together to get them to come to a resolution of the problem. The officers should realize that the participants' emotions will be at a high and the officers should be a little more tolerant of abusive or vulgar statements made by either participant. Upon coming to a resolution the officers will clear the call. Upon subsequent calls the proceeding guidelines will be followed and in addition the participants will be advised of avenues to follow in regards to counseling and/or emergency placement. When an assault has taken place that requires medical attention, your immediate supervisor should be contacted as soon as possible so that the necessary arrangements can be made to see that the victim is taken care of,

hospitalization and/or emergency placement, and placement of children, if applicable.

It is realized that all calls cannot be handled the same and not all calls will be at a residence, but the same basic procedures can be utilized:

1). Separate the participants.
2). Obtain the statements.
3). Come to a resolution.
4). Clear the call.

NEWTON
Domestic Violence

Purpose: Law enforcement officers too often are required to return to the scene of family disturbances because no enforcement action was taken on the first response. The purpose of this procedure is to establish guidelines officers will follow when responding to family disturbances.

Family disturbances, domestic violence or family violence, etc. include any harmful physical contact or threat of harmful contact between family or household members or unmarried couples as a method of coercion, control, revenge or punishment. This also includes spouse abuse, child abuse, elderly and handicapped abuse.

Procedure: Officers responding to a family disturbance, after securing the situation, will investigate to determine if any city ordinance or statutes have been violated.

If the officer determines there is sufficient probable cause to believe a crime has been committed the perpetrator will be arrested. (K.S.A. 22-2401).

The police department's responsibility and concern is for the victim's welfare. The police shall be the affiant on the complaint for arrest.

K.S.A. 22-2401--Arrest by Law Enforcement Officer:

A law enforcement officer may arrest a person under any of the following circumstances:
(a) The officer has a warrant commanding that the person be arrested.
(b) The officer has probable cause to believe that a warrant for the person's arrest has been issued in this state or in another jurisdiction for a felon committed therein.
(c) The officer has probable cause to believe that the person is committing or has committed:

(1) A felony; or
(2) A misdemeanor, and the law enforcement officer has probable cause to believe that:
(A) The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested;
(B) The person may cause injury to self or others or damage to property unless immediately arrested; or
(C) The person has intentionally inflicted bodily harm to another person.

(d) Any crime, except a traffic infraction, has been or is being committed by the person in the officer's view.

The victim should be advised of the Victim's Rights Program of Harvey County.

1. The right to be protected.
2. The right to seek criminal charges against the abuser.
3. The right to services of shelter and court protection orders (PFA).
4. Contact Diversion Officer and Victim Services, Harvey County Courthouse, telephone (316) 283-6900, ext. 261.

During the hours of 9:00 am - 5:00 pm, Monday through Friday, if the victim wishes to obtain a PFA, contact the office of the Diversion Office and Victim Services, (316) 283-6900, ext. 261. If personnel in that office are not available, assist the victim in completing the form and take it to a district court judge for his signature.

The Protection From Abuse Act (PFA) forms will be available in the department squad room. After 5:00 pm weekends and holidays the police officer will assist the victim in completing the PFA form. Upon completion contact a Harvey County District Court judge and make arrangements for obtaining his signature. After the judge signs the order, three copies will be made. The original goes to the victim, a copy is given to the assailant and the third is kept with the police department.

Once the PFA order is in effect, any violation should be acted upon promptly. If, through your investigation, a violation of the law has been committed the perpetrator shall be arrested at the scene or by arrest warrant if gone upon your arrival.

If the perpetrator is on the premises when you are called back, after serving the PFA, that person can be charged with criminal trespass (Newton City Ordinance 17-612 or K.S.A. 21-3721).

17-612 Criminal Trespass (Newton City Ordinance):

Criminal trespass is entering or remaining upon or in any land, structure, vehicle, aircraft or watercraft by one who knows he is not authorized or privileged to do so:

a. He enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to him by the owner thereof or other authorized person.

K.S.A. 21-3721 Criminal Trespass:

Criminal trespass is entering or remaining upon or in any land, structure, vehicle, aircraft or watercraft by one who knows he is not authorized or privileged to do so; and:

a. Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

b. such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

c. such person enters or remains therein in defiance of a restraining order issued

pursuant to K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543, or 38-1563 and amendments thereto, and the restraining order has been personally served upon the person so restrained.

OSWEGO
Family Disturbance Call

Officers will use their own discretion if they need a back-up at any family disturbance call. It is suggested by this department that you do call for a back-up if you think that violence is involved. County deputies can be used as back-up. If the officer believes any lives are in danger it is strongly urged by this department not to go into the situation until you have a back-up officer with you.

SHAWNEE
Domestic Violence/Abuse Cases

Purpose: To establish a standard procedure to deal with domestic violence situations. This procedure is intended to promote more uniform handling of domestic violence cases, provide more protection to victims of abuse, force abusers to resolve personal problems and prevent offenders from escaping justice. We also believe this procedure will reduce the number of times the police will have to respond to incidents involving the same offender.

Definitions:

Domestic Violence is any physical contact or threat of harmful contact between family or household members or unmarried couples.

Family or Household Members means spouses, former spouses, persons related by blood over the age of eighteen (18), and persons who are presently residing together, or who have resided together in the past. Persons who have a child in common, regardless of whether they have been married or have lived together at the time, are also included.

Unmarried Couples means persons who are or who have in the past been involved in an ongoing, intimate relationship.

Legal Authority:

1. Authority to arrest - K.S.A. 22-2401.
2. Johnson County District Attorney Policy Dated May 24, 1988.

I. Policy Regarding Domestic Violence

A. The policy of the Shawnee Police Department is to view all domestic violence complaints as instances of alleged criminal conduct. Arrest, charging and taking custody of the suspect(s) involved shall be deemed the most appropriate law enforcement response when officers determine that they have legal authority and probable cause exists in domestic violence situations.

II. Response to Domestic Violence

A. Investigate and Take Appropriate Action

1. In instances of domestic violence, officers shall investigate and take actions necessary and appropriate.

B. Arrest

1. Arrest shall be the appropriate response where there is legal authority to take a person into custody, when the offender has committed a misdemeanor and the law enforcement officer has probable cause to believe that:

a. the person may cause injuries to him/herself, others, or damage to property unless arrested, or
b. the person has intentionally inflicted bodily harm to another person, or
c. any crime, except a traffic infraction, has been or is being committed by the person in the officer's view.

C. Victim Assistance

1. Inform the victim of sources of assistance in the community. This should be done when the offender has left.

2. Sources of victim assistance:

Johnson County Mental Health	782-2100
Legal Aid	764-8585
Battered Person Crisis Phone	262-2868
Johnson County Victim Assistance	782-9206

3. Officers may transport the victim to a place of safety, or remain at the scene for a reasonable period of time, if circumstances so dictate.

D. Prepare Report

1. In all instances of domestic violence, officers shall prepare a report detailing all pertinent information. If no arrest is made, the reason why must be stated in the report.

III. Special Considerations

A. Victim need not agree to sign a complaint or testify.

B. District Attorney's Policy

1. The District Attorney's office is prosecuting all cases of domestic violence, when there is probable cause to support the arrest of the offender.

2. If an arrest is not made at the scene, the District Attorney's office will request a warrant within one week.

3. The defendant, at the time of arrest (or first court appearance), will be subject to a no contact order as a condition of bond.

4. Each case will be assigned an advocate from the Victim/Witness Assistance Program.

5. No charges will be dismissed solely on the basis of the victim's or witnesses' reluctance to appear in court. If necessary, subpoenas and other legal tools will be used to force the witnesses and victim to court.

SHAWNEE COUNTY
Community Protocol for Family Violence Cases

Purpose: The District Attorney, Sheriff, Police Chief, Shawnee County Administrative Judge and Battered Women Task Force staff have mutually agreed upon this community protocol to encourage the criminal justice system to deal more effectively with family violence cases. These agencies join together to adopt this policy which calls for aggressive enforcement of the laws governing domestic violence/abuse, recognizing that appropriate arrests and subsequent services can prove beneficial to protect the victim, to deter the abuser from committing further acts of violence, and to raise community awareness of the problem of family violence.

A. Definitions.

1) Domestic Violence means harmful physical contact, or the threat thereof, between couples of the opposite sex, married or unmarried, including the destruction of property, as a method of coercion, control, revenge, or punishment, or the threat thereof.

2) Unmarried Couples means persons of the opposite sex who are or who have in the past been involved in an ongoing, intimate relationship.

B. Law Enforcement Response.

Recent research by the Police Foundation and other agencies has indicated that arrest is the most effective intervention in domestic violence cases in reducing the incidence of further violence.

This section outlines those procedures necessary to implement a proactive arrest policy in Shawnee County.

1. Arrest

Arrest shall be the appropriate response where

(a) there is probable cause to establish violations of Kansas law and where
(b) there are visible signs of injury or physical impairment, or
(c) there was a threat with a dangerous weapon,
(d) there has been a violation of a Protection From Abuse order or a restraining order issued by a judge. The order must specify that a violation will result in arrest.

K.S.A. 22-2401 permits a law enforcement officer to arrest a person when the officer has probable cause to believe that the person is committing a crime in the officer's view; or has committed a felony; or a misdemeanor, and the law enforcement officer has probable cause to believe that the person will not be apprehended or evidence of the crime will be lost, or the person may cause injury to self or others or damage to property unless immediately arrested, or has intentionally inflicted bodily harm to another person. (The underlined portion was added by the Legislature specifically for domestic violence cases).

2. Victim Assistance

In cases where the abuser has left the residence prior to arrival of the officer, the officer should inform the victim of resources and assistance available in the community through the Battered Women Task Force at the YWCA. BWTF will provide materials for law enforcement officers to give to victims.

3. Police Reports

The police shall forward to the District Attorney all police reports where the officer believes that there is probable cause that a crime occurred, whether arrest is made at the scene or when suspect has left the scene. These reports shall be labeled "Domestic Battery".

4. Arrest Warrants

The District Attorney will issue warrants for arrest in appropriate cases when the assailant has left the scene. These should also be noted, "Domestic Battery". Statistical data should be gathered for each response by BWTF.

5. Training

Appropriate law enforcement officers should receive training, at least annually, related to these family violence procedures. BWTF will provide training if requested.

C. Prosecution Response

Research also indicates that the crime of domestic violence is against society as well as the victim; therefore the burden of filing charges should not rest solely on the victim.

This section outlines those procedures necessary to coordinate a vigorous prosecution policy with the efforts of law enforcement in Shawnee County once an arrest is made.

1. Arrest

The District Attorney will encourage all police departments and the Sheriff's Department to arrest an abuser when there is probable cause to establish violations of Kansas law and when there are visible signs of injury or physical impairment, or a threat with a dangerous weapon. Where the factual situations permit the officer to make an arrest, the officer will be expected to do so.

2. Filing of Complaint/Case Management

When police reports have been received by the District Attorney, charges will be filed in all cases where there is sufficient evidence to prosecute. Misdemeanor cases will be prosecuted

as a form of community intervention in an effort to address the violence before it escalates, producing more serious physical and emotional injury.

The determination that must be made in each case as to its legal sufficiency to be prosecuted will be made by the District Attorney or an assistant district attorney. Actual filing and handling of a case will be by an assistant district attorney or a legal intern. Once a case has been assigned, evaluated and filed, it will remain the responsibility of the attorney or intern originally assigned. The victim will no longer be required to file the complaint.

The policy which will be in force will remove the control of the prosecution of domestic violence cases from the influence of waxing and waning emotions and place them on similar footing with other criminal cases. Domestic violence cases will be investigated and evaluated in the same manner as is expected in other cases. Once a case is filed, it will not be dismissed simply because the victim becomes unwilling to cooperate in the prosecution.

3. Warrants for Assailants

Prompt attention shall be given to family violence cases where the assailant was not at the scene when the police/sheriff arrived. The District Attorney's office will label all arrest warrants as "Domestic Battery" cases so that expedited service of process can be made where possible. Warrants shall be requested within three court days whenever possible.

4. Bond

A person arrested for a crime resulting from domestic violence should be subject to the additional precaution of requiring a bond with professional surety. At first appearance, the District Attorney will ask the court for a no contact order as a condition of bond. This will prohibit the defendant from contacting or causing the contact of all endorsed witnesses in the criminal cases. A defendant charged will be required to appear at the first appearance (for felony) or arraignment (for misdemeanor).

5. Diversion

In domestic violence cases, subject to the approval of the victim, a defendant who has not previously been convicted of an offense involving domestic violence will be considered eligible for participation in a domestic violence diversion program. As a condition of participation in that program, the defendant must agree to enter and successfully complete the Shawnee County Battered Women Task Force's Alternatives to Battering Program or any other counseling program that may be agreed to by all parties.

The District Attorney will take appropriate action in the District Court if it is determined that:

(1) There has been a violation of the no contact order.
(2) Intimidation of a witness has occurred.
(3) There has been violation of a civil protection order, involving a criminal offense.

In cases where diversion is not appropriate, the prosecutor will attempt to proceed with the case with as few continuances as possible to increase the likelihood to a conviction and decrease the pressure and opportunity of the abuser to continue to commit violent acts against any other.

6. Training

The District Attorney's Office will participate in training law enforcement officers, community and criminal justice personnel in handling family violence cases in Shawnee County.

7. Victims Rights

The prosecutor will work cooperatively with law enforcement officials, victim and victim advocates to provide information about the proceedings to the victim. The victim shall be advised of the following:

(a) Diversion Program --at the request of the victim, diversion may be considered for the defendant in an effort to create alternatives to criminal prosecution.

(b) Use of Subpoena --at the request of the victim, the prosecutor will issue a subpoena to shield the victim from pressure from the assailant or other parties not to participate in the case as a witness.

(c) Plea Negotiations --The prosecutor shall approach plea negotiations with the intent of holding the abuser accountable and protecting the victim from further abuse.

(d) Sentencing Recommendations --the prosecutor should advise the victim of the sentence which may be imposed by the Court.

The prosecutor shall attempt to consult with the victim prior to entering into a plea agreement, dismissing the case or amending the charges.

8. Dismissal

Once a family violence case is filed, it will be prosecuted through conviction and sentencing. Requests made by the victim to dismiss will be refused. Cases should not be dismissed while the defendant is on diversion even if divorce proceedings or reconciliation occurs. Dismissals will be allowed only for reasons having to do with the legal merits of the case.

D. Court Response

In successful programs which have been studied, the most effective way for intervention programs to contact assailants has been to approach them in the jail following arrest.

The following change in bonding procedure has been implemented to facilitate this contact.

1. Bonding Procedure

Persons arrested for a "domestic battery" will be required to post a bail bond in the amount of $1,000 with professional surety. A "domestic battery" is a battery against a member of the opposite sex. The arresting officer will indicate "domestic battery" at the time of booking into the county jail.

2. Protection From Abuse Orders

All protection orders shall specify that any violation will result in arrest of the person violating the order.

E. Battered Women Task Force Response

The final step to protect the victim and to deter the abuser from committing further acts of violence is referral to a community intervention program where both victim and assailant can receive help.

1. BWTF offers shelter, counseling and referral to community services for victims of domestic violence. These services are available 24-hour daily at no charge.

2. The Alternatives to Battering Project (ABP) offers client assessment, case monitoring, education, referral and post treatment assessment to assailants on either diversion or probation/parole. Services are also available to those individuals who may be self-referred. Fees are based on a sliding income scale; no one is denied service because of inability to pay.

STAFFORD
Domestic Violation Cases

Statement of Policy

Generally the crime of battery is the result of the emotion of the moment, especially where the victim is the wife, ex-wife, girlfriend, or ex-girlfriend of the perpetrator. Unfortunately, criminal cases resulting from these situations have all too often been treated in much the same way. The result has been that the resources of the community (police, prosecutor and courts) are frequently wasted and all those trying to remedy the problem become cynical as a result of the frustration.

Effective immediately, a new policy will be in force in this jurisdiction which will remove the control of the prosecution of domestic violence cases from the influence of waxing and waning emotions and place them on similar footing with other criminal cases. Once a case is filed, it will not be dismissed simply because the victim becomes unwilling to cooperate in the prosecution.

Investigation

When a law enforcement agency receives a report of suspected battering, the result of domestic violence, the agency will be responsible for investigating the allegations in the same manner expected of other cases. The investigation will include statements from witnesses, including photographs of any injuries, collection and preservation of any physical evidence such as weapons or instruments used to inflict injury, and, where possible, statements from suspects.

Arrest

Officers who work cases involving domestic violence will, of course, be expected to follow the law in making arrests. Where the factual situation permits the officer to make a lawful arrest, he or she will be expected to do so. The statute governing the law of arrest is as follows:

K.S.A. 22-2401. Arrest by law enforcement officer. (See Newton Domestic Violence policy for text of K.S.A. 22-2401).

Bond

A person arrested for a crime resulting from domestic violence will be subject to the additional precaution of requiring a surety (rather than signature/O.R. bond) and conditions on the bond to prohibit contact with the victim.

Filing of Complaint/Case Management

The determination that must be made in each case as to its legal sufficiency to be prosecuted will be made by the county attorney.

WAMEGO
Domestic Disturbance Calls

When responding to this type of call, an officer shall use extreme caution as these can be very dangerous. The officer should request a backup when responding to a domestic disturbance. At the scene, the officer should separate the parties involved, preferably into different rooms. If the officer cannot defuse the situation, then the officer will have to remove one of the parties, either of their own choosing or by the officer's choosing. The officer has several options to consider. One or both subjects may be taken into custody, one or both may be allowed to seek lodging elsewhere, or one or the other may be referred to the regional crisis center. If the situation involves children, the officer may want to investigate further and refer the situation to S.R.S., whether for placement of the children, follow-up counseling, or other family assistance that might be needed.

WICHITA
Department of Law
Personnel Policies and Guidelines
for Domestic Violence Cases

I. General Policy Statement

The department of law through the city prosecutor's office is committed to intervene in domestic violence cases. On a case by case basis, the goal shall be to implement the most effective response to the perpetrators through prosecution, use of deferred judgment and recommendations to the court on sentencing alternatives combined with the best method of protecting and assisting the victim.

II. General Guidelines

In recognition of the complexity that is present in domestic violence cases, the intent of the following guidelines is to provide guidance and structure rather than a rigid formula for the prosecution of domestic violence cases. Prosecutors shall continue to have discretionary authority in handling domestic violence cases.

1. The prosecutor shall file complaints and seek warrants as appropriate in all domestic violence cases. The prosecutor shall review the complaints with the municipal court clerk. This includes affirming or swearing to the information contained in said complaint when seeking a warrant

based upon their information and belief as contained in the written report of the police officer. The review process will be coordinated with the detective assigned who will follow up in cases where the information is incomplete. The domestic violence coordinator will also assist in the review for the purpose assuring that the victim or victims advocate is notified of any problems associated with the prosecution of an individual case.

2. A case will not be dismissed solely because the victim requests that charges be dismissed. (No drop policy).

3. Pending charges involving domestic violence will be disposed of by the defendant being required to enter a plea of guilty, nolo contendere; preceding to trial; or use of plea bargaining alternatives (including the deferred judgment program). Dismissal of a case shall be a last resort. Detail summaries of plea bargaining that result in the reduction of charges and dismissal of cases shall be prepared by the attorney handling the case for review by supervisors. Dismissal and reduction of charges shall be made in open court.

4. Victims of domestic violence will be assisted throughout the court process and informed of the availability of support and treatment services.

5. Prosecutors in domestic violence cases shall enforce all municipal ordinances in an attempt to maximize the ability of the court to place controls on the defendants and to defer further acts of violence. The following guidelines shall apply:

(a) The prosecutor shall seek to obtain convictions.

(b) The prosecutor shall proceed with as few continuances as possible to increase the likelihood of conviction and decrease the opportunity for the defendant to continue to commit violent acts against the victim or to pressure the victim.

(c) The prosecutor shall cooperate with law enforcement officials, victim advocates and victims to increase access to evidence and information regarding the case.

(d) Plea bargaining:

(1) The prosecutor shall approach plea bargaining with the intent of furthering the policies and goals of the domestic violence program.

(2) Factors to be considered in determining if and what type of plea bargaining may be appropriate include the strength of the case, mitigating and aggravating circumstances, the defendant's record, the victim's wishes, and whether plea bargaining achieves the results of providing the most effective method of protecting and assisting the victim, and the most effective method of ending violence in the family.

(3) The prosecutor shall confer with supervisors prior to dismissing a case, unless prior investigation reveals witnesses cannot be located. The supervisor shall for purposes herein be the assistant city attorney assigned to the prosecutor's office.

(4) The prosecutor shall refer defendants to the domestic violence coordinator for evaluation prior to offering deferred judgment. Deferred judgment shall be offered only in situations where domestic violence deferred judgment guidelines are met.

6. At sentencing, prosecutors shall make statements concerning aggravating factors involved in the defendant's behavior and request for restitution should be made to the court by the prosecuting attorney when warranted by the situation. The victim should be given the opportunity to make statements at sentencing. The prosecuting attorney should make recommendations to the court that assist the court in determining whether jail or imprisonment should be imposed, participation in a treatment program required and/or whether a no contact order should be issued.

7. If the victim fails to appear for trial, a continuance should be requested. Cases should be refiled if the court dismisses a case for lack of prosecution if the witness can thereafter be located.

8. Cases in which the victim is uncooperative will be dealt with on an individual basis. While the intent is not to revictimize the victim, the integrity of the system established to protect citizens from abuse must be preserved.

(Note: The City of Wichita has also enacted a number of ordinances which implement its domestic violence response policy. Among the ordinances on file at the League office is Ordinance No. 40-821, adopted December 12, 1989, establishing a deferred judgment program. Excerpts from Ordinance No. 40-821 are set out below.)

SECTION 1....DEFINITIONS:

(a) City Attorney means the city attorney of the City of Wichita, Kansas, or any of his or her authorized assistants.

(b) Complaint means complaint, citation, or notice to appear in municipal court.

(c) Deferred judgment means referral of a defendant in a criminal case other than that charging an alcohol related offense to a supervised program after the defendant has entered a plea of guilty, but prior to the court entering judgment and imposing sentencing on that plea.

(d) Deferred judgment agreement means the specification of formal terms and conditions which a defendant must fulfill in order to have his or her guilty plea set aside and the charges against such person dismissed.

(e) Crime involving domestic violence means crimes involving any harmful physical contact or the threat thereof between family or household members or unmarried couples, including the destruction of property or the threat thereof as a method of coercion, control, revenge or punishment.

(f) Family or household members means spouses, former spouses, persons related over the age of 18 years, persons who are presently residing together or who have resided together in the past.

(g) Unmarried couples means persons who are, or have in the past, been involved in an ongoing intimate relationship.

SECTION 2....DEFERRED JUDGMENT--AGREEMENTS, TIME LIMITS:

(a) There shall be a deferred judgment program made available to defendants charged with crimes involving domestic violence or certain other crimes which, in the discretion of the city

attorney, are eligible for such treatment.

(b) In any case in which the defendant has entered a plea of guilty, the court accepting the plea has the power, with the written consent of the defendant and his or her attorney of record and the city attorney, to continue the case for a period not to exceed 18 months from the date of entry of such plea for the purpose of entering judgment and sentence upon such plea of guilty; except that such 18 month period may be extended for an additional 180 days if the failure to pay restitution is the sole condition of supervision which has not been fulfilled, because of inability to pay. During such time that judgment is deferred and sentencing is suspended, the court shall place the defendant under the supervision of the diversion coordinator in the office of the city prosecutor.

(c) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the city attorney is authorized to enter into a written agreement to be signed by the defendant, his or her attorney of record, and the city attorney under which the defendant obligates himself or herself to adhere to the conditions of the agreement. The deferred judgment agreement shall provide that if the defendant fulfills the obligations of the program described herein, as determined by the city attorney, the city attorney shall act to have the plea of guilty previously entered withdrawn and the criminal charges against the defendant dismissed with prejudice.

SECTION 3....DEFERRED JUDGEMENT--WHEN AGREEMENTS TO BE OFFERED:

(a) After a complaint has been filed charging a defendant with a violation of the city code and after the city attorney has considered the factors listed in Section (5) of this ordinance, if it appears to the city attorney that deferred judgment of the defendant would be in the interests of justice and of benefit to the defendant and the community, the city attorney may propose a deferred judgment agreement to the defendant. The terms of each deferred judgment agreement shall be established by the city attorney in accordance with Section (7) of this ordinance.

(b) The city attorney shall adopt written guidelines and policies for the implementation of a deferred judgment program. Such policies and guidelines shall list those crimes for which deferred judgment may be offered, provide for a conference with the defendant and establish other procedures where the city attorney elects to offer deferred judgment in a case.

SECTION 4....DEFERRED JUDGMENT--INFORMATION TO BE PROVIDED BY DEFENDANT:

The city attorney may require any defendant requesting deferred judgment to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history - including any psychiatric or psychological treatment or counseling, and other information relating to the deferred judgment program. In all cases, the defendant shall be present and have the right to be represented by counsel at the deferred judgment conference with the city attorney.

SECTION 5....DEFERRED JUDGMENT--FACTORS TO CONSIDER FOR DEFERRED JUDGMENT:

(a) In determining whether the deferred judgment of a defendant is in the interests of justice and of benefit to the defendant and the community, the city attorney shall consider at least the following factors among all factors considered:

(1) The nature of the crime charged and the circumstances surrounding it;

(2) Any special characteristics or circumstances of the defendant.

(3) Whether the defendant is a first-time offender and if the defendant has previously participated in any diversion or deferred judgment program in any jurisdiction.

(4) Whether there is a probability that the defendant will cooperate with and benefit from the deferred judgment program.

(5) Whether the available deferred judgment program is appropriate to the needs of the defendant.

(6) The impact of the deferred judgment of the defendant on the community.

(7) Recommendations, if any, of the involved law enforcement agency.

(8) Recommendations, if any, of the victim.

(9) Provisions for restitution.

(10) Any mitigating circumstances.

SECTION 6....DEFERRED JUDGMENT--WHEN PROHIBITED:

The city attorney shall not enter into a deferred judgment agreement on a complaint alleging a violation of an ordinance of the City of Wichita if the defendant has previously participated in a deferred judgment or diversion program in any jurisdiction for any prior case involving the same type of offense, and the prior offense occurred on or after March 1, 1990.

SECTION 7....PROVISIONS OF DEFERRED JUDGMENT AGREEMENT:

(a) The deferred judgment agreement shall include specifically the waiver of all rights under the law or the constitution of the State of Kansas or of the United States to a speedy arraignment, a speedy trial and the right to trial by jury. Such agreement shall also specifically provide that, upon a breach by the defendant of any condition therein, the court shall enter judgment and impose sentence upon the defendant's guilty plea. The deferred judgment agreement may include, but is not limited to, provisions concerning payment of restitution, including court costs and deferred judgment costs, residence in a specified facility, maintenance of gainful employment, no contact with the complaining witness, and participation in programs offering medical, educational, vocational, social and psychological services, corrective and preventative guidance and other rehabilitative services.

(b) The deferred judgment agreement shall state:

(1) The defendant's full name.

(2) The defendant's full name at the time the complaint was filed, if different from the defendant's current name.

(3) The defendant's race, sex, and date of birth.

(4) The crime with which the defendant is charged.

(5) The date the complaint was filed.

(6) The municipal court with which the deferred judgment agreement is filed.

SECTION 10....FAILURE TO FULFILL DEFERRED JUDGMENT AGREEMENT:

(a) If the city attorney finds at any time within the term of the deferred judgment or at the termination thereof that the defendant has failed to fulfill the terms of a specific agreement, then he or she shall make application to the municipal court for a hearing on the matter. Upon notice to the defendant and his or her attorney of record, the court shall hold a hearing and make a determination as to whether there has been a breach of conditions by the defendant. The burden of proof at such hearing shall be by a preponderance of the evidence. If the court finds that there has been a breach of terms of a specific deferred judgment agreement, then the court shall enter judgment and impose sentence upon defendant's prior guilty plea.

(b) If the defendant has fulfilled the terms of a deferred judgment agreement, the city attorney shall act to have the plea of guilty previously entered withdrawn and the criminal charges filed against the defendant dismissed with prejudice.

WINFIELD
Crisis Intervention

One of the law enforcement officer's more dangerous and stressful duties is that of family crisis intervention. Many officers do not like to handle these calls because they do not feel adequately prepared to handle the situations. In response, officers should be knowledgeable of human behavior in crisis situations. They should also become proficient in safety and survival skills such as approach techniques, defensive tactics and interview techniques. Mastery of these skills will give officers confidence in their ability to handle crisis situations. They will be less apt to over-react and injure an innocent person, or under-react, which could result in injury to the officer.

Procedures for Handling Calls

I. The dispatcher is the officer's lifeline on high-risk calls. On disturbance calls the dispatcher should:

Keep the person making the report on the phone. This allows the dispatcher to update information to officers enroute after the call is dispatched.

Notify officers of the disturbance, its location, and as much additional information as possible. Give responding officers a description of the house and its location on the block. This allows them to anticipate the locations and deploy properly.

If possible, check records on the location and its occupants for previous disturbances/offenses.

II. The officer's procedures enroute to the call should facilitate safe arrival and proper control of the situation upon arrival.

Extreme caution is the rule, not the exception, on any disturbance call.

The officer should mentally prepare for the call by reviewing his knowledge of the location, persons involved and tactics for handling disturbances.

Use extreme caution in vehicle operation. High speed and carelessness will not save enough time to warrant the risk to yourself or other citizens. Follow departmental rules and regulations. Operate in accordance with existing traffic, road and weather conditions. You can not do your job if you do not arrive.

Coordinate with other officers enroute to the call.

III. Upon arrival, the patrol unit should be parked away from the residence so as not to be seen by the occupants.

Wait for back-up units to arrive before approaching. Exception would be if officer's immediate presence is necessary to protect a citizen from possible death or serious injury. NOTIFY DISPATCHER OF YOUR ACTION.

Officers should meet at a location away from the house, if at all possible, to plan their actions.

Approach from an angle using cover and concealment.

Stop, look and listen at a window or door. Find out what the dispute is about, how many people are involved and the level of violence, if any.

Approach the door, move any obstructions, stand to one side of door and knock. Back-up should be on opposite side of door and in shadow if possible. When the door is opened, step quickly inside, to one side of the doorway, push the door back to make sure no one is behind the door.

IV. Family crisis intervention techniques should involve officer survival skills, interviewing techniques and mediation skills.

If a weapon is involved, immediately secure the weapon and the person with the weapon. Be alert for other weapons and actions by other persons involved in the dispute.

If no weapon is involved get their attention. Do not get physically involved. Use a whistle or tap a door frame with a baton to get their attention.

Once you have their attention, immediately begin to defuse the situation.

Often merely breaking eye contact between the disputants serves to reduce the tension. One technique which works well is for the officers to each address a disputant while moving to opposite corners of the room. This serves to break eye contact as the disputants turn to speak to the officers. It also allows officers to maintain visual contact with each other and the disputants.

Once you have controlled the immediate situation, find out how many other occupants are in the residence and ensure their safety and well-being.

Sometimes it is necessary to separate the parties by taking them into different rooms. Ensure you maintain eye contact with your partner. Pick neutral areas. Avoid kitchens (weapons) and bedrooms.

When you start your interview be sure that you are in control of your senses. Do not take sides. Give the impression you are there to help.

If appropriate, sit down so you will be at the same eye level. Do not let your guard down. Sit on the edge of your seat and lean forward. This gives an impression of attentiveness and at the same time allows you to quickly move.

Speak softly and slowly. This reduces tension and requires them to pay more attention which gets their mind off the problem.

Let them talk. Help them talk through their problem by listening and focusing on their emotions. Rephrase their statements into questions to help them keep on track and get to the root of the problem. Do not be judgmental. Avoid "you should..." statements.

Remain an objective third party, outside the conflict.

After they have told you their side of the story you can switch disputants with your partner and repeat the process. Sometimes it is possible to bring the disputants together without this step.

The next step in mediation is to bring the parties together and let them relate their side without interruption. Officers should summarize key points. The causes of the dispute that both parties agree on should be explored.

Officers should help the disputants reach solutions that are agreeable to both parties. A list of community services is a valuable aid to the officer in recommending sources of help.

V. An arrest is warranted and should be made if there is evidence that a crime such as spouse abuse or child abuse has been committed.

Code for Municipal Courts; Prosecution and Arrest. K.S.A. 12-4212; Section 1(4)(D): "the law enforcement officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested."

Criminal Code; Arrest K.S.A. 22-2401: The officer has probable cause to believe that the person is committing or has committed:...

> "a misdemeanor, and the law enforcement officer has probable cause to believe that:... the person has intentionally inflicted bodily harm to another person."

Protection From Abuse Act--K.S.A. 60-3101 et seq.

House Judiciary Committee
Senate Bill No. 356
March 29, 1991

The Kansas Association of Chiefs of Police regrets that it is unable to have a representative present to offer information in person, but we would like the Committee to know our position on Senate Bill No. 356.

Kansas law enforcement recognizes the gravity of domestic violence and treats it with the seriousness it warrants. The level of recognition that this social problem receives is evidenced by the fact that most law enforcement agencies already have domestic violence policies in place. These policies are not only concerned with resolving the immediate problem confronted by the police, but also the long term consequences and counseling needs of the victims.

The Association is committed to efforts which are aimed at reducing and dealing with family violence, but we do not feel that the solution should be mandated by the State. While the intent and wording of this bill are admirable and the concepts are certainly supported by the Association, we feel that the creation of these policies should remain at the local level.

We are also concerned with the fact that this bill removes all discretion from the personnel at the scene of domestic violence by mandating that arrests be made. Completely removing discretion increases the chances of an injustice being done, as all possible situations can not be anticipated. It is better to leave the discretion to arrest with the officer, so that all factors can be evaluated at the time of the incident.

For these reasons, the Association urges the Committee to vote against this measure.

HJUD
Attachment #7
3-29-91

Kansas Advocacy & Protective Services, Inc.

kaps

513 Leavenworth
Manhattan, KS 66502
(913) 776-1541

TO: The House Judiciary Committee
Representative John M. Solbach, Chairman

FROM: Kansas Advocacy and Protective Services, Inc.,
R.C. Loux, Chairman

RE: S.B. 373

DATE: March 29, 1991

KAPS assists disabled children and adults in gaining access to the rights and services to which they are entitled. Our agency fulfills the protection and advocacy requirements of P.L. 94-103, as amended, the Developmental Disabilities Act, and the Protection and Advocacy for Mentally Ill Individuals Act, P.L. 99-319, as amended. We also administer the Kansas Guardianship Program. KAPS is a private, non-profit corporation created in 1977 specifically to provide these services for Kansas.

The amendments proposed would update K.S.A. 74-5515 to bring Kansas law into compliance with recent changes to the Developmental Disabilities Act (42 U.S.C. 6000) and the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801) pertaining to access to records requirements for designated state protection and advocacy agencies.

We ask your support for these proposed amendments.

Respectfully submitted,

Joan Strickler

Joan Strickler
Executive Director

HJUD
Attachment #8
3-29-91

STATE OF KANSAS

EUGENE L. SHORE
REPRESENTATIVE, 124TH DISTRICT
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STANTON AND STEVENS COUNTY
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ENERGY AND NATURAL RESOURCES
LEGISLATIVE, JUDICIAL AND
CONGRESSIONAL APPORTIONMENT
TAXATION
TRANSPORTATION

Testimony on House Bill 2604 Rep. Eugene L. Shore
House Judiciary Committee
March 29, 1991

Mr. Chairman and members of the committee, I appreciate the opportunity to testify today in opposition to HB 2604.

House Bill 2604 would remove the requirement that each county have at least one magistrate judge located within that county. The requirement that each county have at least a magistrate judge was approved by statute, so that of course, can be changed by the Legislature.

The state became responsible for the magistrate judges' salaries under the unified system where the counties or cities have been responsible for the probate judge or the justice of the peace salaries in prior years. The central part of this bill, and the part to which I object, is the change and even the probability that if this bill passes, certain rural counties may be without a judge and may be subject to driving long distances at difficult hours to have access to a court. Visiting with the district judges in my district, I find the urban judges already have many benefits our rural judges do not have. For example, the two judges in my district share a court reporter so the state furnishes each of them one-half a court reporter. Our judges have no secretary, no law clerk, and no bailiff. In the urban judicial districts, each judge has a full time secretary, full time court reporter and

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access to law clerks and bailiffs hired by the judicial system. The total case load in urban districts is much higher, but in number of large cases involving felonies, large domestic disputes and so forth, our district, although rural, is near the top.

While magistrate judges are elected to serve a particular county, they are used on a regular basis in another county as needed. Our judges in Southwest Kansas serve in Liberal and Garden City and, many times, in other urban areas of the state. Although I was not in the Legislature at the time the court system was unified, I hardly believe the rural areas of Southwest Kansas were the ones that were asking for the change. This appears to be a case of first they take our money, then they take control, then they want our people, in this case our judges, because they are being paid with state money. There are people in this State Legislature that tend to believe the magistrate judges are less important simply because some are non-lawyer judges. Magistrate judges are restricted as to the cases they hear and all decisions are appealable. Many decisions and actions of the magistrate judge, however, I do not feel require the judge to be an attorney, as many of the cases can be decided better by common sense than by education. **The key question in this bill is access.** I think the people of Southwest Kansas or other rural areas deserve to have access to the court system without being asked to drive an unfair number of miles or be inconvenienced any more than any other citizen of the state.

Mr. Chairman and members of the committee, I appreciate you allowing me this opportunity to testify in opposition to HB 2604.

Ladies and Gentlemen:

My name is Don Concannon. I live in Hugoton, Stevens County, Kansas. I would like to present to your committee copies of Petitions signed by 2444 residents of the 12 Southwest Kansas counties in opposition to the bill being considered by this committee. These Petitions were circulated in less than two weeks, which is indicative of the mood of the citizens of our area.

I am only one voice from the Southwest, but I assure you that the large majority of residents of our area are vehement in their reaction to the potential loss of another governmental service in order that the urban areas can have increased service without paying increased taxes at our expense.

For those of you who have not visited Stevens County, it is located on the Oklahoma border and is 30 miles east of the Colorado border. It is geographically located closer to three other state capitols than to Topeka.

We recognize that not being part of the Louisiana Purchase as was the majority of Kansas makes our area unique. Many of us have come to feel the original designation of "no man's land" of the 1800's is applicable today when the legislature decides to deny rural citizens the access to the same government services which urban residents expect on a daily basis.

Stevens County has 4899 hard working, productive citizens and one pushy lawyer. We do not demand that the urban areas support, with taxes, our quest for equal treatment and access to the basics of education, health care and justice. We do not believe the urban citizens expect the rural areas to be taxed to support urban access to the same basic services. It is not the people who seek to have others pay for their governmental service. It falls squarely on the

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legislators who want to tax anyone other than their own constituents, even though it directly benefits their constituents. Those legislators who take such a position fail to understand the basic fairness of Kansans. All of us are willing to bear our fair share of the tax burdens but we expect equal access to the benefits derived from those taxes.

For the record, let us look at the facts on the taxes paid to the state by Stevens County and those paid by Johnson and Sedgwick Counties. According to the Kansas Department of Revenue Annual Report on Gas Production alone in 1990, Stevens County produced 145.8 million MCF out of total of 580.3 million MCF, or 25% of the total tax collected in the amount of $58,069,884. Stevens County paid $14,517,471 into the state coffers. By comparison, Johnson County produced 196,000 MCF for a total tax of $19,613 and Sedgwick County produced 46,000 MCF for a total of $4,603. If my calculations are correct, the gas tax alone means that every man, woman and child in Stevens County contributes nearly $3000 each to Kansas government and now this bill suggests we are not even entitled to equal access to our justice system. The people of Kansas will not approve of the basic unfairness of this approach once they have come to understand the effect of this proposed legislation.

I cannot deny the voting power of the urban areas as Bob Bennett carried only 21 counties to defeat me by 530 votes in the Republican Primary in 1974. The urban vote is ominous, but the voters are fair people and they will rally to the defense of those of us who may be denied the basic governmental services merely because we have less voice in government. I assure you the key to re-election does not lie in the unfair and unequal treatment for those who may have smaller and less powerful voices.

10-2

We elect you to represent the state of Kansas as a whole, not to protect or promote self interest and to divide the state on the basis of geography. We expect our legislators to produce statesmen and leaders, not run-of-the-mill politicians who are more interested in re-election than justice and fairness for all.

Rural Kansans cannot threaten to move our wealth out of Kansas, as others have done to receive special dispensation, as our wealth is fixed assets, but Kansas can only go to the trough so many times before the well runs dry and then who will pay those bills we have been paying.

The legislature takes our millions each year to promote equal education throughout the state and now for the legislature to seek to diminish our access to equal justice and still take our money is ludicrous.

In my 63 years I have yet to hear one single taxpayer complain about fair taxes. No taxpayer objects to paying his fair share, but the complaints of unfairness will continue until all taxes are fair to all taxpayers and all taxpayers have equal access to governmental services. Then and only then will you have performed the duties which we expect of you.

When Kansas or the nation calls for help, the rural areas always respond vigorously and instantly. They have an unusual sense of loyalty, patriotism and duty as evidenced by the recent Persian Gulf War where over 50 young men and women from Stevens County served in various capacities in the Armed Forces. Fortunately, all of them will return.

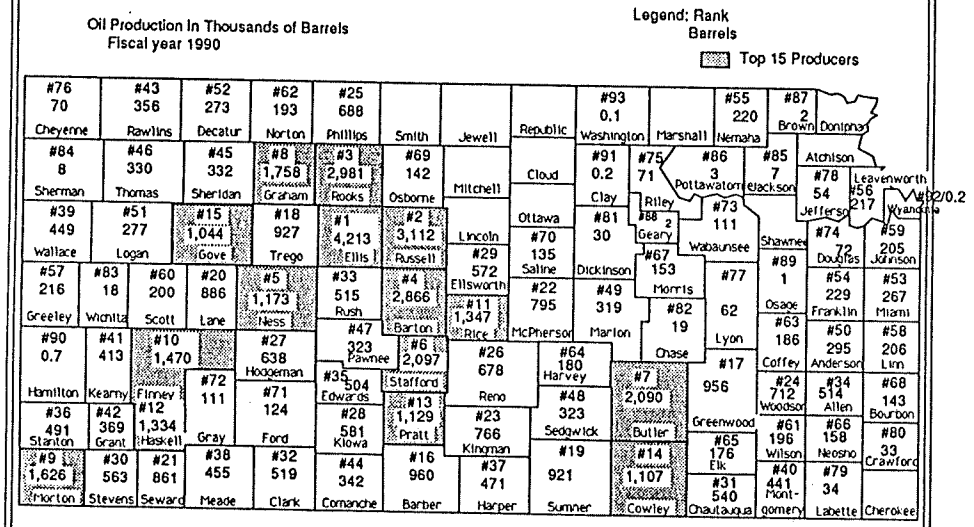
We believe it is your obligation to those rural Kansans to establish that the Kansas legislature is above provincialism and guarantee that all citizens of Kansas have equal access to

education, health care and justice, regardless of where they live. Kansas is crying out for leadership and you have a unique opportunity to prove those qualities of fairness that go with Kansas leadership. We respectfully hope that you do not disappoint us.

Oil Production

This map shows Kansas gross crude oil production in thousands of barrels by county from May, 1989 through April, 1990 , which corresponds to tax collections for FY 1990. The upper figure for each county is the statewide production ranking and the lower figure is the county's oil production.

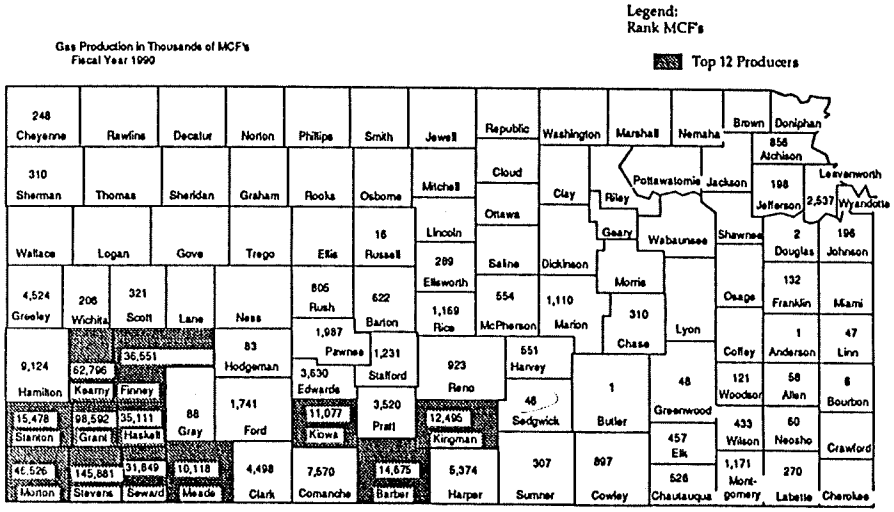
Ninety-three of the State's one hundred and five counties produced oil. Ellis County, with 4.2 million barrels, was the top producer. There were fifteen counties (see shaded areas) whose individual production exceeded one million barrels for the year. Their combined production of 30.3 million barrels was 55.2 percent of the statewide total production of 55 million barrels.



Gas Production

This map shows Kansas gross natural gas production, in thousands of MCF by county from May, 1989 through April, 1990, which corresponds to FY 1990 collections.

Sixty of the 105 counties produced natural gas. Stevens County was the number one producer with 145.8 million MCF. There were twelve counties (see shaded areas) whose individual production exceeded 10 million MCF for the year. Their combined production of 353.8 million MCF was 61 percent of the statewide total production of 580.3 million MCF.

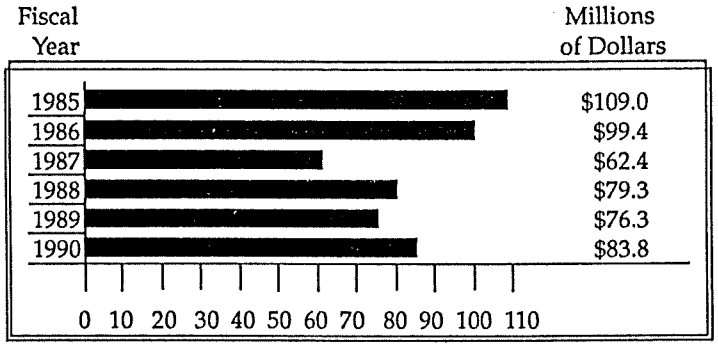


Top 12 Producers

Stevens - 1	Finney - 5	Barber - 9
Grant - 2	Haskell - 6	Kingman - 10
Kearney - 3	Seward - 7	Kiowa - 11
Morton - 4	Stanton - 8	Meade - 12

Mineral Tax

The statutory tax rate on oil and natural gas is 8 percent of the sale price at the wellhead; however, property tax credits of 3.67 percent on oil and 1 percent on gas, produce an effective rate of 4.33 percent on oil and 7 percent on gas. Coal and salt tax rates are applied to the volume of production; $1 per ton on coal and four cents per ton on salt. The 1987 Legislature repealed the tax on salt effective July 1, 1987, and modified the exemption for coal effective January 1, 1988. The 1987 legislation modifying the method of computing exemptions for oil production was effective with May 1988 production, and did not have an effect on revenue until FY 1989.



Fiscal Year	Amount Collected	Percent Change
1985	$108,950,339	-4.5%
1986	$99,410,365	-8.8%
1987	$62,358,366	-37.3%
1988	$79,325,580	27.2%
1989	$76,277,641	-3.8%
1990	$83,769,294	9.8%

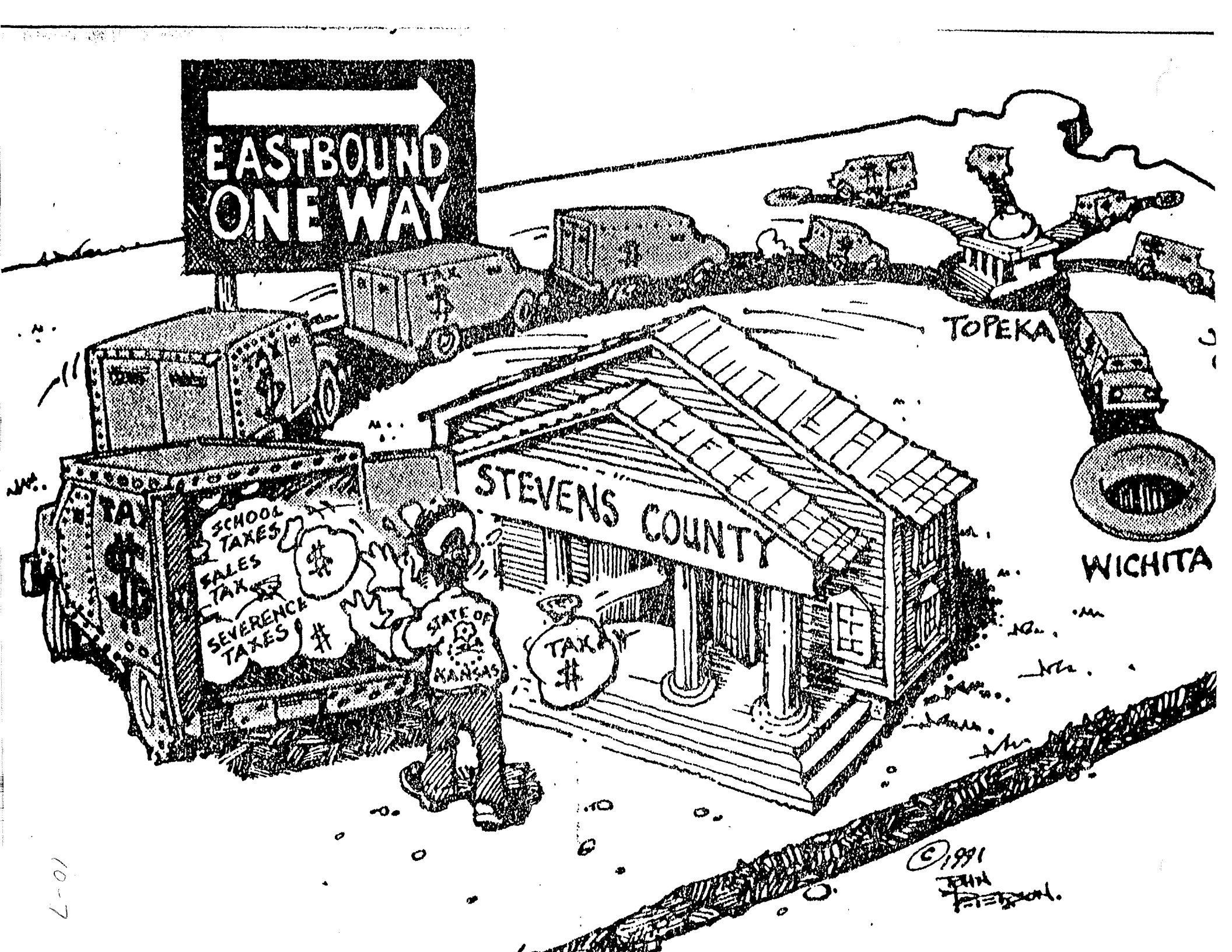
Total Collections by Product

Product Type	Fiscal Year 1989	Fiscal Year 1990	Percent Change
Oil	$24,116,648	$25,699,410	6.6%
Gas	$52,160,993	$58,069,884	11.3%
Total	$76,277,641	$83,769,294	9.8%

Distribution Among Funds - Fiscal Year 1990

Product Type	State General Fund	Refund Fund	Special County Mineral Production Tax Fund*
Oil	$23,671,618	$246,057	$1,781,735
Gas	$53,695,228	$333,080	$4,041,576
Total	$77,366,846	$579,137	$5,823,311

* Distribution to county of production


EASTBOUND
ONE WAY
TOPEKA
WICHITA
STEVENS COUNTY
TAX
SCHOOL TAXES
SALES TAX
SEVERENCE TAXES
STATE OF KANSAS
TAX
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JOHN

TESTIMONY OF J. RUSSELL JENNINGS
BEFORE THE JUDICIARY COMMITTEE OF
THE KANSAS HOUSE OF REPRESENTATIVES
MARCH 29, 1991 3:30 P.M.

APPEARING AS PRESIDENT OF THE
KANSAS DISTRICT MAGISTRATE JUDGES ASSOCIATION

HJUD
Attachment # 11
3-29-91

Before beginning with the substance of my message today, I want to ask each of you to keep an open mind about the issue before you. The issue is not necessarily East versus West, nor urban versus rural. This is true even though the effect of adopting legislation which eliminates the requirement of one judge in residence in each county of the state may well have the greatest immediate impact on rural Western Kansas.

This is, after all, a statewide policy and, as such, is not one which is limited according to what area of the state you live in. The true issue is the overall effectiveness and quality of service that is provided to the people of Kansas.

Chief Justice Richard W. Holmes addressed this issue in his "State of the Judiciary" message presented to a joint session of the legislature on January 23, 1991. In the words of Chief Justice Holmes:

> "Any change will have many ramifications which should be carefully considered, not only as to the fiscal impact but the impact upon the lives of our citizens and their access to the judicial system."

The Chief Justice went on to say:

> "Any amendment of K.S.A. 20-301b will, of course, ultimately have substantial impact on the Kansas judicial system and consideration must be given to the needs of law enforcement and the ability of the judicial branch of government to assure equal, swift and effective access to justice for all the citizens of Kansas."

11-2

I urge you to consider carefully the remarks of the Chief Justice. I also urge you to give careful consideration to the minority report of the Redistricting Advisory Committee of the Kansas Judicial Council. You will find that, in response to survey questions from the advisory committee, a large majority of persons who are both directly and indirectly involved with the judicial system stated that they are opposed to repeal of K.S.A. 20-301b. You will also find that a large majority finds acceptable the system of cross-assignment of judges from the rural areas to urban areas.

I think it is important to remind you of the history of court unification and of the duties of district magistrate judges. Prior to 1977, there were a number of local courts. These included juvenile courts, probate courts and other such courts of specialized jurisdiction. There was also a district court made up of district judges.

In 1977, the courts were unified, creating one state trial court, the district court. Separate municipal courts were retained but these are not a part of the one state trial court. Initially, this one state trial court, created by the 1977 unification, included three classes of judges: district judges, associate district judges and district magistrate judges. Through subsequent merger of associate district judges into the ranks of

the district judges, we have come to the present two-tiered district court made up of 148 district judges and 70 district magistrate judges.

Clearly, since there are 70 district magistrate judges and since there are no counties in the state in which there is more than one district magistrate judge in residence, two-thirds of all Kansas counties are served daily by district magistrate judges. Generally, those district magistrate judges are the only judges of the district court providing daily services in those two-thirds of all Kansas counties.

Each district magistrate judge presently receives a salary of approximately $32,000.00 per year. Each district judge presently receives a salary of approximately $67,000.00 per year. Obviously, the cost, for salary, of a district magistrate judge is less than one-half of the cost associated with the district judge.

Furthermore, few, if any, district magistrate judges in this state have the benefit of secretarial staff. District magistrate judges make their own telephone calls, write their own letters and decisions, and schedule all hearings. Therefore, it can readily be seen that the citizens of the State of Kansas are receiving quite a bargain from the services of district magistrate judges.

You might say, "Fine, district magistrate judges don't cost

as much as district judges; but, what can they hear in terms of cases?" Let me tell you about the kinds of cases which district magistrate judges are authorized to hear.

District magistrate judges are vested with concurrent original jurisdiction with district judges in many matters. However, there are some statutory limitations placed upon the jurisdiction of district magistrate judges. Nevertheless, the jurisdiction of district magistrate judges is quite broad and, in fact, covers the vast majority of cases filed in the district courts of Kansas.

Examples of cases which district magistrate judges are authorized to hear and determine are: juvenile cases, including juvenile offenders and children in need of care; misdemeanor criminal cases; felony criminal cases, through the preliminary hearing; issuance of search warrants and arrest warrants; small claims cases; civil cases, involving an amount in controversy not in excess of $10,000.00; civil cases, involving an unlimited amount in controversy in landlord-tenant actions regarding rents; civil cases, involving an unlimited amount in controversy in which the cause of action does not sound in tort and is unsecured; probate cases, including decedent estates, care and treatment of mentally ill persons, care and treatment of alcohol and drug addicted persons, adoptions, guardianship and conservatorship

proceedings and the management of those estates; temporary custody and support orders in domestic relations cases; child support enforcement and visitation enforcement in post divorce matters; and, proceedings brought under the protection from abuse act. It should be emphasized that these examples are merely illustrative and are not intended to be a fully comprehensive listing of the types of cases which district magistrate judges are authorized to hear.

In any of the mentioned proceedings in which a jury trial is an option, the district magistrate judge is authorized to conduct such a jury trial. In jury trials of this type, a six person jury is utilized.

Any matter heard by a district magistrate judge can be appealed to a district judge. The appeal is de novo - that is, the matter is reheard - except that in civil actions in which a record has been made, the appeal is upon the record with counsel arguing the case before a district judge upon the original record made before the district magistrate judge.

We are fortunate in Kansas to have a judicial branch of government which is lauded throughout the nation as being one of the country's best. In fact, Kansas has received national recognition for its efforts in jury management and in case delay reduction. In these areas, the Kansas court system has been

honored by the American Bar Association and by the National Foundation for the Improvement of the Administration of Justice. In short, the Kansas court system is widely recognized as being one of the best state court systems in the United States.

I am quick to point out that it has been said time and again that district magistrate judges are the workhorses of the Kansas judicial branch. Hearing high volume cases, both in their own and other counties, district magistrate judges have been utilized in such a manner as to free the hands of district judges so that they can hear and determine major cases in a more timely fashion. In this way, district magistrate judges have made a substantial contribution to the Kansas judicial branch of government in the area of case delay reduction and have been recognized for their valuable contribution resulting in the National Foundation for the Improvement of the Administration of Justice award for case delay reduction efforts.

I have mentioned the use of district magistrate judges in counties other than their own counties of residence. I should explain to you how district magistrate judges are used outside of their home counties.

As you know, there are 31 judicial districts in the state. Each district has an administrative judge who is vested with the

authority to assign the case load in a manner in which there is equality in the distribution of cases. Certainly, this is accomplished in different ways in each of the 31 judicial districts. But, since I am most familiar with the 25th Judicial District, I will explain how we do business there.

The 25th Judicial District is comprised of six counties, with Finney County being the most populous county within the district. There are five district magistrate judges, with one in each county of the district except for Finney County. Presently, one district magistrate judge is assigned to hear cases in Finney County, Monday through Thursday, and two district magistrate judges are assigned to Finney County on Friday.

Each of the district magistrate judges is responsible for a particular type of case. On Monday, the district magistrate judge is assigned to hear juvenile cases. On Tuesday and Wednesday, my days, I hear criminal cases - trials in misdemeanors and preliminary hearings in felonies. On Thursday, the district magistrate judge is assigned to hear traffic cases. And, on Friday, two district magistrate judges share the limited actions, probate, and small claims cases. In the event that any one of us has to be absent from court on a given day, some other district magistrate judge in the district attempts to cover the case load for that day.

What does this mean in terms of cases determined? In Finney County during calendar year, 1990, a total of 8,349 cases were handled by five district magistrate judges. These, of course, were in addition to the cases heard by these district magistrate judges in their respective counties of residence. The 8,349 cases in Finney County break down as follows: 2,704 limited actions; 271 small claims; 108 probate proceedings; 692 criminal cases; 395 juvenile cases; and, 4,179 traffic cases, of which 704 were D.U.I. cases.

We all know that you can take a set of statistics and make them look any way you like. But, when it is implied that district magistrate judges are not working, I must take issue. We are working, and we are working hard. We not only hear cases, within our jurisdictional limitations, in our counties of residence, we hear cases elsewhere in our judicial districts. In addition, until this year, we have regularly been assigned to hear high volume cases in Shawnee, Douglas, and Johnson Counties through a system of cross-assignments.

I believe that if you take a close look at the proposals in the redistricting committee report attached to the Judicial Council report, you will find that the proposition before you, if passed, will in a relatively short time come to be regarded as the first step toward a regionalized court system.

While considering this matter, please keep in mind the message of Chief Justice Holmes in his address, carefully read all of the reports, seek out accurate information, and make your own independent decision on what will be the best policy for the state and its citizens.

The Kansas District Magistrate Judges Association opposes repeal or amendment of K.S.A. 20-301b and suggests that there is considerable wisdom in the old saying that, "if it's not broke, don't fix it."

11-10

TESTIMONY OF

DENNIS C. JONES

BEFORE THE JUDICIARY COMMITTEE OF
THE KANSAS HOUSE OF REPRESENTATIVES

MARCH 29, 1991 3:30 P.M.

APPEARING ON BEHALF OF THE

KANSAS COUNTY AND DISTRICT ATTORNEYS ASSOCIATION

IN OPPOSITION TO

H.B. 2604

HJUD
Attachment #12
3-29-91

MR. CHAIRMAN AND LADIES AND GENTLEMEN OF THE COMMITTEE:

My name is Dennis Jones, and I am the County Attorney of Kearny County, Kansas. I am pleased to appear before you today on behalf of the Kansas County and District Attorneys Association, in opposition to House Bill 2604.

The Kansas County and District Attorneys Association stands united in it's opposition to the repeal of K.S.A. 20-301b. In January of this year, a poll was taken of our association's membership. One question was asked in that poll:

> "Should the Kansas County and District Attorneys Association adopt a resolution in opposition to the repeal of K.S.A. 20-301b?"

Sixty-nine (69) responses to the poll were received. Of those responses, sixty-four (64) were in favor, and five (5) were opposed. Ladies and gentlemen, when the County and District Attorneys of Kansas were specifically asked to consider the issue that you are being asked to consider in H.B. 2604, ninety-three percent (93%) of those responding expressed their opposition to repeal of K.S.A. 20-301b.

This issue is an important issue to the prosecutors of Kansas. Numerous letters were written to our Association office, in addition to the ballots being returned. The concerns of our membership are sincere and substantial.

First among the concerns expressed is the issue of constitutional rights of the citizens of Kansas. Due process and equal protection of the law are rights that belong to all Kansans, both rural and urban. To remove the requirement that a judge be located in each county is the first step in actually removing our judges. It is assumed that some type of district or regional assignments would then be made. Such a system could have an adverse

and devastating effect upon how we as prosecutors perform our job.

Access to the Court is an imperative factor in prosecuting crime. So too, is the amount of time expended in gaining that access a factor. In requesting a search warrant or arrest warrant, there may simply not be enough time available to drive 30, 50, 70, or 90 miles to find a judge. With the requirement that a judge be located in each county, timely access to the Court is assured.

Another important factor, especially for the smaller, rural counties, is the personnel, or lack thereof, that is available in the law enforcement agency of such small counties. Often times, only one (1) or two (2) officers are on duty. To require those officers to travel great distances to obtain access to the Court denies the citizenry the law enforcement protection it is entitled to.

With a judge living in each county, access is not a problem. That judge is available, even after office hours, to meet the needs of law enforcement and prosecution.

Other matters also often require swift access to the Court. Children in need of care cases; protection from abuse situations; temporary orders required in domestic cases; juvenile offender matters and treatment of mentally ill or incapacitated persons often require expeditious access to the Court. Our membership deals with these matters, and fully understands the necessity of having access to the judicial system in order to protect those citizens who often cannot protect themselves.

To deny access to the judicial system to those citizens who need access the most, is to effectively deny justice to the citizens of Kansas.

Each judge in Kansas is subject to the voice of the citizenry at periodic intervals. Whether the judge is elected directly, or is subject

to a retention election, the public is allowed to control it's judicial branch of government. A local judge is subject, therefore, to local control. That, ladies and gentlemen, is how we feel our democracy works best.

Since the court unification plan was implemented in Kansas in 1977, our system has been recognized nationally for it's efficiency and professionalism. A basic tenet of the court unification implementation was that a judge of the District Court would be located in each county. Why, ladies and gentlemen, should we change that which requires no change?

Access is a word you have heard me use many times today. Access, we feel, is what this issue now before you is all about. Whether they be from rural Kansas or urban Kansas, all of our citizens are entitled to the same access to our judicial system. That access to the Court and to our judges needs to be swift and to be guaranteed. To deny our citizens access to their judicial system is to deny justice to those it serves.

Thank you for the opportunity to appear before you today and, on behalf of the county and district attorneys of Kansas, I urge you to oppose any repeal of K.S.A. 20-301b.

RESOLUTION

A RESOLUTION DECLARING OPPOSITION TO THE RECOMMENDATION BY THE JUDICIAL REDISTRICTING ADVISORY COMMITTEE FOR THE REPEAL OF K.S.A. 20-301b.

WHEREAS, pursuant to K.S.A. 20-301b, "In each county of this State there shall be at least one judge of the district court who is a resident of and has the judge's principal office in that county;" and

WHEREAS, in seventy (70) of the One Hundred Five (105) counties of this State, the requirement of K.S.A. 20-301b is met by resident district magistrate judges; and

WHEREAS, District Magistrate Judges "have the jurisdiction, power and duty, in any case in which a violation of the laws of the State is charged, to conduct the trial of traffic infraction or misdemeanor charges and the preliminary examination of felony charges;" and

WHEREAS, District Magistrate Judges must be immediately available in said counties to issue search warrants and arrest warrants, and to hear care and treatment proceedings and juvenile proceedings; and

WHEREAS, the Judicial Redistricting Advisory Committee, created by the Kansas Judicial Council, has recommended the repeal of K.S.A. 20-301b, which would result in many district magistrate judge positions being eliminated and a reduction in the accessibility and quality of justice available to Kansas residents of counties now served by resident magistrate judges; and

WHEREAS, the purpose of the Kansas County & District Attorneys Association "is to promote, improve and facilitate the administration of justice in the State of Kansas;"

NOW, THEREFORE, be it resolved by the Board of Directors of the Kansas County & District Attorneys Association that, as an association, it opposes any legislation which would result in the repeal of K.S.A. 20-301b.

BE IT FURTHER RESOLVED that copies of this RESOLUTION be made available to the Judicial Redistricting Advisory Committee, the Kansas Judicial Council, the judiciary committees of both Houses of the Kansas Legislature and the press.

ADOPTED AND APPROVED by the Board of Directors of the Kansas County & District Attorneys Association on January 24, 1991.

Rodney H. Symmonds
KCDAA President

ATTEST:

Randy Hendershot
KCDAA Secretary-Treasurer

KANSAS COUNTY & DISTRICT ATTORNEY'S ASSOCIATION — ORGANIZED LAW ENFORCEMENT VS. ORGANIZED CRIME

HJUD
Attach. # 13
3-29-91

Kansas Sheriffs Association

P.O. Box 1853
Salina, Kansas 67402-1853

913-827-2222

I am Harry Craghead, Sheriff of Hodgeman County, and the current President of the Kansas Sheriffs Association. I appear here today in both capacities - as the sheriff of a small county and as president of the Association.

I am here in opposition to House Bill 2604. The Association I represent and I, as an individual sheriff, believe that the repeal of the statutory requirement that each county shall have at least one resident judge would have a direct adverse impact on rural law enforcement. The detrimental effects of such a repeal would also be felt by prosecutors, attorneys and, most importantly, by the citizens of the counties involved.

The enactment of House Bill 2604 will greatly hamper law enforcement in small counties. Law enforcement does not operate on regularly scheduled business hours. By its nature, law enforcement responds to emergency situations when they happen. And, by their nature, emergency situations cannot be arranged to take place only during regularly scheduled business hours.

When a law enforcement officer needs a search warrant after normal business hours or on weekends or holidays, it is absolutely imperative that the law enforcement officer be able to present the application to a judge without delay. Moreover, in a small county department such as mine, a maximum of three officers and, more often, only two officers are available at any given time.

If one officer has to go out of the county seeking a judge to review and sign the warrant, then the remaining officer is left alone in a possibly volatile situation. This could lead to a circumstance which costs the life of a law enforcement officer because the only available back-up officer was traveling to or from some other county in quest of a judge.

In small counties with limited numbers of officers, the need to maintain a schedule set by a judge from some other county would

HJUD
Attachment #14
3-29-91

take away a measure of flexibility that is often necessary for good law enforcement and for good administration of justice. When an emergency develops, the law enforcement officer must respond immediately.

If that emergency situation arises on the day of or, perhaps, even during the scheduled visit by a judge from some other county, the law enforcement officer in the small county has no choice other than to make that immediate response. This is because, if that law enforcement officer does not respond, in many instances there is no other law enforcement officer available.

Although the visiting judge would probably grant a continuance in such a case, there would undoubtedly be a significant delay in scheduling the matter for some subsequent visit by that judge. I do not believe it is in the best interests of society or of the judiciary or of law enforcement to delay or prolong the judicial process any longer than is absolutely essential. This is particularly true in areas such as juvenile and mental illness protective custody cases in which law enforcement officers are under legislative mandates to bring the persons before a judge quickly.

I suppose the law enforcement officer could take the defendant out of the county for a hearing in a county where a judge is permanently stationed. But, once again, this would leave the citizens of the county unprotected by that officer while that officer is out of the county. In a county, such as mine, in which there are only two or three law enforcement officers available at the best of times, the absence of even one officer obviously cuts the available law enforcement presence by either one-half or one-third.

Removing the lone judge from any of the nearly two-thirds of all Kansas counties in which there is only one judge permanently stationed would have a similar effect on the judicial system in those counties. In fact, such a measure could be likened to removing twenty-four judges from Sedgwick Ccunty or sixteen judges from Johnson County - all of the judges would be gone from the county.

I am, first and foremost, a sheriff from a small county. I know that I am not an eloquent speaker. It has not been easy for me to come before you. But it was necessary for me to do so in order for me to make you aware of my concerns. I hope that some of the examples I have given you here today will provide you with food for

thought.

On behalf of the Kansas Sheriffs Association and on behalf of the citizens of Kansas, I urge that you not enact House Bill 2604.

KANSAS ASSOCIATION OF COUNTIES

"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
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March 29, 1991

To: House Judiciary Committee
Chairman John Solbach

From: Anne Smith
Director of Legislation

Re: HB 2604 Repealing K.S.A. 20-301b; relating to requiring at least one judge in each county

The Kansas Association of Counties opposes HB 2604. Our convention approved legislative policy statement says, "The further consolidation of the judicial districts, as well as limitations on the number of judges and non-judicial personnel is not favored by the Kansas Association of Counties. County officials feel there has been enough consolidation in these areas, and to further consolidate, would severely limit accessibility to judicial services. The KAC supports and urges increased judicial and non-judicial personnel in those districts experiencing caseload problems".

As we conducted legislative workshops for county officials throughout the state last summer, we heard repeatedly that county officials support additional personnel, not further consolidation. It is important to the timely processing of cases and the smooth operation of law enforcement to have judges readily available. If this is not the case, prisoners will be held longer in the county jail awaiting trial, thus increasing the costs to counties.

We understand the financial constraints facing both the state and local governments, but this does not seem to be a good place to economize. We oppose HB 2604

TSA2604

HJUD
Attachment # 15
3-29-91

Office of the Riley County Attorney

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TESTIMONY IN OPPOSITION TO HOUSE BILL 2604

Presented on 29 March 1991 by William E. Kennedy III to the HOUSE JUDICIAL COMMITTEE

This Bill appears to be a turn in the wrong direction for the needs of the citizens of rural Kansas. Acknowledging that the maintenance of a Magistrate Judge has a dollar cost, it must be evaluated concerning the value of the status quo before abolishing the position. From a prosecutor's point of view, a Magistrate Judge has the authority to issue arrest warrants, to preside over juvenile hearings, to preside over mental illness proceedings, to preside over bond hearings, to issue juvenile detention orders, to hear misdemeanor cases, to hear preliminary examinations and waivers thereof, and to issue search warrants. Probably the most urgent need in this list is to have a person available who can act without conflict or appearance of impropriety and issue needed search warrants. As a rule, an application for a search warrant is urgent, as one of the requisites to obtain a search warrant is that probable cause must exist that the object to be searched for is indeed present at the location one desires to search. Therefore, on small amounts of drugs, time becomes extremely essential because one must convince the issuing Judge that the drugs will still be there at the time of the arrival of the officer. The destruction of the Office of the Magistrate Judge would:

1) Require a search warrant applicant to travel whatever distance required to find the District Judge;

2) Require the District Judge to find that the item is likely to be still present on the return of the searching party; and

3) Require the party wanting the search warrant to find a Judge in some other County and intrude on whatever else that Judge is doing.

The logistical problem becomes extreme, and it is easy to foresee a cautious Judge wanting additional information. The problem then compounds.

The current codes for Children In Need of Care or Mental Illness also require the presence of a nearby Court. It seems unreasonable for a County Attorney and groups of witnesses to travel the country looking for a Judge so that a short term hearing can be held, and given the volatile nature of that type proceeding, (Temporary Custody Hearings often take more than one or two hours) it is difficult to imagine a District Judge being able to travel from County to County to handle such cases within the statutory time period required.

It is obvious that the question comes down to which steaks should be sliced off which sacred cow. It is also apparent that a good deal of jousting occurs between the courts and the legislature, all due to their separate roles in government. I believe it would be far more appropriate to look at the balance between money spent on Court Service Officers and money spent on Community Corrections, and to determine the validity of the dual roles of those two organizations, and to also consider the role of Parole Officers, then it would be to deprive our separate Counties of their local judge.

HJUD
Attachment #16
3-29-91

MANGAN, DALTON, TRENKLE, REBEIN & DOLL CHARTERED
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FAX MESSAGE

DATE: March 29, 1991 TIME: 2:00 p.m.

TO: Firm Name - _____

Individual - Rep. John Solbach

FAX
Telephone No. - (913) 296-0251

FROM: Individual - Jack Dalton

Number of Pages (including this cover sheet): 3

Equipment: Ricoh FAX20E, compatible with G3, G2 and N. American 6 minute terminals.

If you do not receive all of the pages, please call (316) 227-8126, and ask for the transmitting secretary: Cindy

PLEASE SUBMIT TO THE JUDICIARY COMMITTEE FOR ITS HEARING THIS AFTERNOON.

HJUD
Attachment #17
3-29-91

MANGAN, DALTON, TRENKLE, REBEIN & DOLL CHARTERED
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JIM MANGAN (RETIRED)

March 29, 1991

Rep. John Solbach
Chairman, House Judiciary Committee
Topeka, Kansas 66612

Re: House Bill #2604

Dear Rep. Solbach:

I have practiced law in southwest Kansas for more than 37 years. As with any lawyer in this area, my practice extends into many areas of southwestern Kansas, and primarily three judicial districts which comprise 18 counties in the area. Through those years, I have come in contact with the probate judges in each county, which, through unification, as you know, evolved into the district magistrate judge system we presently have.

I have also been a member of the Kansas Judicial Council for the last 21 years. As you know, the legislature asked the Judicial Council to study judicial redistricting. A rather extensive report was developed through a subcommittee of the Council. The subcommittee's report was amended by the Council and forwarded to the legislature. I believe it is in the revisor's office, unless it has been heretofore submitted by the revisor to the legislature.

I have been proud to serve on the Judicial Council because it is an empirical study group designed to improve the administration of justice within the State of Kansas. It has always been a low profile group consisting of judges, lawyers and legislators. It has never sought recognition, and really never received it. The members serve for a modest per diem and expense allowance far less in the terms of sacrifice of time and money the respective members make. It has never been a political group, but has always remained dedicated to the improvement of justice. That particular condition changed somewhat with the requested redistricting study. When initially submitted to the Council, the repeal of K.S.A. 20-301(b) was recommended. The Council felt that this recommendation placed "the cart before the horse." This was because the subcommittee reported that the study was so complex that appropriate money should be provided for study by the Center for State Courts. The revised report of the Council reflected its action in that regard. Nevertheless, in the interim period of time between

the submission of the report by the subcommittee and the Council's ultimate recommendation to the legislature, Representative Helgerson and Senator Gaines undertook to make the matter political by approaching Chief Justice Holmes and suggesting that he or the Supreme Court intervene in the Council's study and influence the decision of the Council to the end that the repeal of K.S.A. 20-301(b) would be recommended. Moreover, Senator Gaines and Representative Helgerson attempted to intimidate the Court by suggesting that if Justice Holmes did not use his influence on the Council's action, an adverse impact might be realized when the legislature considered the Court's budget. I consider this a flagrant abuse by Representative Helgerson and Senator Gaines of the separation of powers doctrine. Needless to say, Justice Holmes refused, and the Council proceeded with its deliberations, with the result indicated above.

I do not know if Senator Helgerson's House Bill #2604 is a part of the retributive process he and Senator Gaines suggested might take place. Only he can answer that. Needless to say, with the background described above, I believe this bill has been offered without the appropriate study and deliberation that it deserved. People need access to the courts seven days a week, 24 hours a day. There are other means of approaching the fiscal problems the State has, rather than summarily eliminating judges. No study has approached possible financial adjustments that could be made in funding the magistrate court system. To suggest that it be eliminated without careful study of possible changes in the fiscal funding of the magistrates, or other viable solutions, is extremely improvident. Moreover, the reasons and the scenario I have heretofore given suggest that this bill should be viewed with suspicion as to its purpose.

I have mentioned my membership on the Judicial Council merely as background. The foregoing comments should not be taken as those of the Council, or by me as a member of the Council. I am submitting them as a practicing lawyer and a citizen of the State of Kansas.

I would appreciate these comments being made a part of the hearing on House Bill #2604 when it is heard Friday afternoon, March 29, 1991.

Respectfully yours,

Jack Dalton
of MANGAN, DALTON, TRENKLE, REBEIN & DOLL CHARTERED

JED/clg

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HODGEMAN COUNTY COURTHOUSE
FIRST FLOOR

CRAIG S. CROSSWHITE
HODGEMAN COUNTY ATTORNEY
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JETMORE, KANSAS 67854

COUNTY ATTORNEY
(316) 357-6411

April 3, 1991

John M. Solbach
Kansas House of Representatives
State Capitol
Topeka, Kansas 66612

Re: HB 2604

Dear Representative Solbach:

I arrived at the State Capitol on Friday, March 29, 1991 at approximately 4:00 o'clock p.m. at Room 313 in order to enter an appearance and, hopefully, testify concerning HB 2604, which involves the repeal of the requirement for a Magistrate Judge position in every county in the State of Kansas. Unfortunatel the room was empty, with neither the committee nor the witnesses remaining. It is my understanding that the committee convened approximately 1:00 o'clock in the afternoon and adjourned about 3:30 p.m. However, I spoke with your secretary and she indicated I could send in some written testimony. Please add the enclosed letter, in which I will be concise with my comments to add to the testimony taken on the Bill. Thank you for your time.

Sincerely,

Craig S. Crosswhite

CSC/eac

HJUD
Attachment #18
3-29-91

Office of the County Attorney
Hodgeman County, Kansas

Craig S. Crosswhite
County Attorney

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April 3, 1991

John M. Solbach
Kansas House of Representatives
State Capitol
Topeka, Kansas 66612

Re: HB 2604

Dear Representative Solbach:

I am not a native of western Kansas by either birth or marriage. I came to Hodgeman County, Kansas in 1983. Since that time, I have practiced law privately and have been elected as the County Attorney on two occasions. My background prior to that time was very urban oriented having spent six (6) years in Lawrence, Kansas, growing up in the Washington, D.C. area and going to school in North Carolina. It concerns me then, when I am living in a rural area which is served by only a county seat, to hear that the State is considering abolishing the magistrate position as required of each county in Kansas.

Western Kansas is an important place to live in and to preserve. There are many people out here who have the same problems and the same difficulties that exist in eastern Kansas or in more urban areas. Therefore, it concerns me when I hear people state that it costs too much to maintain magistrate judges in western or rural counties from an economic standpoint. Under the old school finance formula, I remind them that if we are only concerned about proportionally how much something costs versus who actually pays the bill and where they live, then the urban areas in Kansas should receive far less then they currently do for schools. In other words, there are some issues that go beyond merely discussing the economics involved.

One of the concepts that the founding fathers of the State believed in was that every citizen should have access to civil and criminal justice as well as Court and Courthouse services within a reasonable distance and time. Even though many counties out here have lost some population, that does not change the needs for those who remain. On the contrary, it probably increases them. It is often said by the Legislature, both as a whole and as individuals, that there is a committment to the farmers and rural residents of the State. Defeating this Bill is a good time to prove this since this committment must certainly include access to a magistrate judge as well as other services in the county.

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I realize that some institutions must change over time. Howver, availability of local justice and local services is still a real concern for rural counties in the state. I realize it is not the policy of the Legislature to apply a direct cost versus benefit approach to tax appropriation in every case at every level, as the above school finance formula example as well as others prove. Therefore, it is not absolutely necessary to apply it to the magistrate judge level merely because there are fewer voters and constituents in rural Kansas. Please maintain the past committment the State has had towards its rural citizens by not supporting or endorsing House Bill 2604 or any similar measure. Thank you for your time to consider these comments.

Sincerely,

Craig S. Crosswhite

CSC/eac