

Approved April 30, 1992

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Sen. Edward F. Reilly, Jr. at 11:15 a.m. on March 11, 1992 in Room 254-E of the Capitol.

All members were present except:
Sen. McClure was excused

Committee staff present:
Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
See attached list

Others attending: See attached list

The Chairman, Sen. Reilly, called the meeting to order and introduced a Boy Scout Troop and their leader from Leavenworth. He then asked Mary Torrence to briefly explain SB 717.

The following proponents gave testimony to the committee on SB 717:

Larry Hess, Lawrence, KS, (Attachment 1);
Gerald Thompson, Leavenworth, KS, (Attachment 2);
Ann E. Bonner, Lawrence, KS, (Attachment 3);
Sherry Cowen, Topeka, KS, (Attachment 4);
Maureen Wusterfield, Lawrence, KS, (Attachment 5);
Larry Smith, Topeka, KS, (Attachment 6);
Dr. Elizabeth Gibbons, Topeka, KS, (Attachment 7);
John Gibbons, Topeka, KS, (Attachment 8).

The following opponents gave testimony to the committee on SB 717:

Kyle G. Smith, Assitant Attorney General, Kansas Bureau of Investigation, (Attachment 9);
Jim Kaup, General Counsel, League of Kansas Muncipalities, (Attachment 10);
Jack Pearson, Kansas Association of Chiefs of Police, (Attachment 11);
Cliff Hacker, Kansas Peace Officers' Association, (Attachment 12);
Anne Smith, Kansas Association of Counties, (Attachment 13).

Sen. Morris questioned Mr. Smith regarding where citizens could legally carry a weapon, and Sen. Reilly confirmed with Mr. Gibbons that the states of Kentucky, Ohio, Texas, Missouri, Florida and Oklahoma have passed bills similar to SB 717, which was modeled after the Florida law.

The meeting adjourned at 12:15.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: MARCH 11, 1992

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Dick Carter	Topeka	McGill & Associates
WHITNEY DAMRON	TOPEKA	Peterhill & Associates
Belva Ott	WICHITA	PROJECT FREEDOM
Math Tavel	Topeka	AP
FRANK MORRIS	LAWRENCE	KS. PUBLIC RADIO
TERRY STEVENS	TOPEKA	TOPEKA P.D.
Jim Kamp	Topeka	League of Municipalities
Paul Shelby	Topeka	OJA
Roger Trautman	"	Ks Govt Consulting
J. Emerson Jr	"	Retired
RONALD H. DAVIS	TOPEKA	Retired
Sherry Cowen	Topeka	Greenbrier Realtors
Joe Herald	Topeka	self
Arnie Robel	Manhattan	self
R. J. Robel	Manhattan	self
Melanie S. Sack	Topeka	KBI
Kyle Smith	Topeka	KBI
Anne Smith	Topeka	Ks. Assoc. of Combs
T. Maple	Topeka	KHP
Cleford Hacker	EMORIA	KPOA
Jack Pearson	Kansas City	KACP
Margaret Westfeld	Lawrence, Ks	
Ann E. Bonner	Lawrence, Ks.	
John F. Bradley	Meriden Conn. 06512	
Walter T. Linder	Topeka, Ks	

Attach. 1

PRESENTATION

MR. LARRY HESS

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, my name is Larry Hess, and I live in Lawrence. I am here today to address a particularly important aspect of Senate Bill 717 as it relates to women.

As a certified rifle, pistol and shotgun instructor for the past 15 years, I have provided firearms training to adult women on numerous occasions, which I have done free of charge. Women who have come to me for instruction usually say they feel a need for protection both inside and outside their homes. Although I advise them that Kansas law does not allow private citizens to carry guns for self-defense, I believe that many do so anyway.

This is not be surprising. It is estimated that three out of four women will face criminal attack in their lifetime. The U. S. Justice Department finds nearly half of all women have "not very much" or "no confidence" in the ability of the police to protect them from violent crime. With more working women living alone, and more mothers raising children as single parents, it's understandable that firearms ownership is an increasingly popular defense option, an option that many women are unwilling to leave at home.

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PRESENTATION

GERALD THOMPSON

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, my name is Gerald Thompson. I am a lifelong resident of Kansas. I am strongly in favor of Senate Bill 717. People talk about crimes committed with guns, but these are the illegal actions of violent criminals. Senate Bill 717 doesn't authorize any new privileges for criminals. Current Kansas law already gives criminals a governmental guarantee that most victims will be unarmed. This bill will erase that guarantee. I am not trying to encourage anyone to carry a weapon, but I do believe the right to decide whether or not to carry a weapon for self-defense should always be a legal option of law-abiding citizens. I believe myself and most citizens of this state are mentally and morally competent to carry a concealed handgun safely and legally. I would trust anyone in this room to carry a firearm. I have no reason not to.

None of you have ever met my wife, but there may be some of you who would be willing to deny her the means to protect herself. In the past few years my father-in-law and my mother have both spent some time in hospitals in very high crime areas of Kansas City. My wife would often leave the

KU Medical Center alone at different times of the day and night. Although she is proficient in the use of handguns, Kansas law forbids her to carry one for her own defense. Myself and other Kansans feel there is injustice in a system where honest citizens must either face the risk of being a defenseless victim, or the risk of being arrested and being made a criminal for trying to protect themselves.

I have given to the Chairman's staff petitions signed by over 1350 citizens from 120 towns and cities in 40 counties in support of this concealed carry permit law. Petitions are still coming in. Proponents of this measure have accepted no financial or lobbying support from national or state organizations. Any letters and calls you have received about this bill are because of a grass roots effort to let the citizens of Kansas know about it. The media have avoided mentioning Senate Bill 717, but people are learning about it anyway and they support it.

On behalf of the thousands of Kansans who will be victims of violent crime this year, I ask you to support Senate Bill 717. Due to time constraints I have provided each of you a packet of information that I believe will help you make the right decision and pass this bill. Thank you for your consideration.

PRESENTATION

ANN E. BONNER

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, my name is Ann E. Bonner, and I reside in Lawrence Kansas. I would like to indicate to you today the reasons why I think that Senate Bill 717 has merit. The idea of having to use a gun against another person does not appeal to me. I do not like the idea of causing hurt to others. However, the idea of being made a victim of someone appeals even less. There are people who, because of chemical influence, mental imbalance, or value systems, have no concern for the damage they inflict on other people. The thought of someone like that attempting to make me into their victim makes me very angry. I do not have a fear of such people. I do not have a wish to cause harm to such people. I simply have no desire to become their victim. It is in this regard that I think that Senate Bill 717 can have a positive effect.

1] It provides a legal means of defense to be available if such a means is necessary. To read the names of innocent people who have been assaulted or murdered is to perhaps see that sometimes it is;

2] Knowing that people are no longer willing to take the victim stance, that they intend to defend themselves and have the means to do it, can be a very strong deterrent to would be attackers;

3] The firearms training stipulated as a prerequisite in the bill is training that anyone handling a gun should receive, but there is no such measure for that in effect at present.

Ideally, I try to avoid high risk situations, and take appropriate precautions in general in regard to my surroundings. Sometimes, high risk people or places cannot be avoided. In these cases, I step up my precautions or take evasive action to avoid potential problems. However, if at some time there is a threat that cannot be avoided, I think it is necessary to be able to face and overcome the threat to the best of your ability. Unfortunately too, many formerly mundane or, at worst, moderate risk areas such as shopping malls and medical center parking lots have recently become much more potentially dangerous. Avoidance and a low profile are not always a complete answer.

Passage of Senate Bill 717 would be a means to reduce the probability that law-abiding citizens would be victimized by the criminal element, and this may be especially true regarding small females such as I am.

Thank you for allowing me to present my views.

PRESENTATION

MRS. SHERRY COWEN

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, my name is Mrs. Sherry Cowen and I reside in Topeka, Kansas. I come before you today on behalf of the many women who support this bill. Our individual circumstances and careers will vary, but we all realize we're vulnerable. We're all tired of being defenseless in a violent world where, at least in this state, only the police and criminals have guns.

Women learn of their vulnerability at an early age. Sexual harassment is known to all women, and the threat of rape is realistic and increasing at an alarming rate. Women are also aware of their physical weakness in comparison to men. These two factors make women a common and easy victim.

A girlfriend of mine, here in Topeka, was abducted, robbed of her wedding rings, raped repeatedly, and then thrown into the path of an oncoming semi-truck. She was, like most female victims, weaker and defenseless. Her murderer, by the way, was never caught and brought to justice.

I'm a Fine Art major at Washburn University and heavily involved with photography. I work most often alone, many times in remote areas, carrying a lot of expensive camera equipment. The risk of robbery is obvious, but its the likelihood of violence that worries me. A couple of years ago I was chased, by a man, around a church I was photographing here in Topeka. There wasn't anyone else in sight, but I managed to get to my car and get away. Not finding a policeman in the area, I returned home to report the incident. That legally-carried, unloaded handgun in the trunk of my car would not have helped me if he had caught me that day.

As a Realtor here in Topeka, I'm constantly working with clients I know very little about. Realtors are taught, from the beginning of our careers, to be careful, to use the buddy system, and to rely on our instincts. We are routinely called upon to show vacant homes, or prepare vacant homes for marketing, that are located in high-crime areas. They are often without electricity and certainly do not have telephone service if I needed to call for help. We are even asked, from time to time, by the police, to secure a vacant property that has been broken into or illegally occupied. I may not want to, but it's my job.

I have considered the other means of self-defense available to me, but they're all inadequate. I even thought about learning some sort of martial art, but I have to be realistic about my own physical limitations, as do other women.

I now carry a handgun, legally, in the trunk of my car. If someone threatens me, however, my life and perhaps my two children's, will depend on me getting the ammunition from

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the glovebox, the handgun from the trunk, and loading the handgun in time. That's a lot of time I probably won't have. I, like others, am tired of being torn between what is morally right and what is legally right in regards to self-defense.

I urge you to take a good, hard look at this issue. Look at violent crimes already committed in which the victim was unarmed, and ask yourself if some of the victims might have been able to avoid becoming victims, had they been armed.

We can only prevent violent crimes when we adequately discourage them. We can begin by legally allowing responsible, law-abiding citizens to protect themselves and their families. The police cannot be everywhere and the criminals of Kansas know that. They use it to their advantage just as they use present handgun laws to their advantage.

Not only do we, here today, speak to you, but also the signatures found on petitions supporting this bill. They also speak to you. They are the voices of your constituents. We ask only that you listen. Thank you.

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PRESENTATION

MRS. MAUREEN WUSTERFIELD

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, my name is Maureen Wusterfield, and I live in Lawrence, Kansas. In December of 1991, I was down at the KU Med Center to have a check up appointment. At nine o'clock in the morning, I parked my car after looking for a parking place. I got out of my car, and just as I was rounding the back end of my car, a man about 20 years old came up and put a gun to my side. I didn't even notice he was there, he just seemed to appear. He wanted my money; "Give me some money!" he said. So I set my purse on the back end of the car, opened my purse up, and I told him that I really didn't have much money with me, that I had lost my job, that I was sick, it was Christmas time, and this was all I had. I said I didn't have any credit cards, because I'd given my credit cards to my husband. He told me to "Shut up and quit talking!", and that he wanted my money. I didn't look directly at him, but as I was getting stuff out of my purse at the back end of my car I noticed that he did have a gun, because he had it in his hand. It was no longer at my side, it was just pointed toward me. I had twelve dollars, and I gave him the twelve dollars and told him that it was all I had. He looked to weigh about 190 to 200 pounds, and he was taller than I, so

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I guess he was about six feet tall. He didn't seem to be worried that anyone was going to see him, because we were standing right at the back of my car. I gave him the twelve dollars, and asked if he wanted the change. He said to "Give me what you've got, and shut your mouth." He took off, and I took off for the exit way so that I could get into the building and report it as soon as I could.

I'm real apprehensive now in going anywhere. Going anywhere, especially at night when I've had to stop at the library or the post office is very hard. If I see people around, I don't stop, I just wait and do it in the daytime. If it can happen to you in broad daylight in the parking lot of a medical center, it can happen to you anywhere. If I go to a basketball game, I don't want to have to walk through the parking lot to the field house, so I have my son take me and pick me up. It has just changed the way I look at things, and the way I do things. I've been an independent person all my life, and raised four children by myself, but I just don't feel comfortable anymore.

I feel that if I had a means of protection, that quite possibly I could protect myself. I wouldn't be hurt. If back in December, the man had decided to physically injure me, there wouldn't have been anything I could have done. If a law was passed where I could have a permit to carry a gun as a responsible adult who has lived almost fifty years, and which would allow me to protect myself, I would like to do that.

Thank you.

PRESENTATION

MR. LARRY F. SMITH

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Senators, my name is Larry Smith. I live here in Topeka. I'm not here to speak for nor as a member of any special interest group.

I am here as a member of two of the largest groups in our society. I fit the mold of middle class, midwestern citizen. I own a home, am married and have reared children here. People like me are the ones who buy the cars, patronize the restaurants, pay the taxes and all this without committing crimes.

I also own and operate a small business here. As you've no doubt heard, we're the ones who create the vast majority of new jobs, occupy most commercial property and again, pay the most taxes.

We live in a country which, unlike any other, guarantees us through a unique constitution the circumstances to create a life as we wish. I believe "Life, Liberty, and the Pursuit of Happiness" is the phrase which applies. In order to have this freedom, certain rights and responsibilities must be in existence. We hear a great deal about rights today. Everyone has some special "right" that they want accorded to them or to the group they happen to be a member of. However, there is one right that transcends all others. That, simply, is the right to be alive, to be secure in one's person. Without that most fundamental right, all others are moot.

Unfortunately, there are elements which would take away that most basic right. As I stated before, responsibilities must also exist in order for rights to exist. These elements have chosen not to accept the responsibilities necessary to a free society and have instead chosen to live outside its boundaries, preying upon those who do live within them. They commit burglaries and robberies, frequently leading to wanton beatings and the most severe personal violence, murder and rape. Entire families can be and are literally destroyed by these actions. All this to satisfy these elements, who, of their own free will, have chosen to be a destructive rather than a constructive force.

Ideally, we would not have these elements in society, the fact remains that we do.

To put this on a personal level, it concerns me to have to carry cash to the bank. We don't deal in huge amounts of money, but certainly more than is involved in many violent robberies. I don't relish the thought of spending the rest of my life as a paraplegic or not spending it at all because one of these elements "needed" a few hundred

dollars. As the husband of one wife and father of two daughters I'm concerned about the increasing violence against women.

I've owned firearms all my life. I'm experienced in the safe handling of them. Possessing them has not tempted me to run amok terrorizing the populace.

You'll hear arguments on both sides of this bill. You'll hear volumes of statistics both for and against the bill, but in the final analysis, none of that matters. Statistics don't bleed, victims bleed. Statistics don't get attacked in dark parking lots, people do.

Senators, people have a fundamental right to choose not to be a victim. No legislature can alter that. What you can do is give the legal means to exercise that choice.

PRESENTATION
ELIZABETH GIBBONS

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, I am Dr. Elizabeth Gibbons, the dance program coordinator on the faculty of Washburn University. I am a competent, intelligent woman; I am also 5'2" tall and weigh 100 lbs. wringing wet. I believe in a woman's right to be responsible for her life and her actions. I carry no paranoid fears that I may be attacked any moment, however, I have had students and friends who have been attacked and were unable to defend themselves.

Attackers select victims weaker than themselves. Only a firearm gives smaller, less aggressive victims equal or better chances against a stronger attacker. An armed woman is much less likely to be injured than a woman who is armed inadequately or not at all.

Women find themselves in a cultural bind when considering self-defense. We are told that we shouldn't go certain places at certain times; if we do we are "just asking for it"; a woman drives to the grocery store at 10:00 at night because she's run out of brown sugar to bake chocolate-chip cookies for her daughter's school event and is attacked in the parking lot. Was a former student of mine "just asking for it" when she was raped while practicing the piano in the music building on a university campus in the evening? Sometimes my husband isn't home when I return after rehearsing late. My younger sister gets off work as a graphic designer for a newspaper, and must drive home at 2:00 AM. My students rehearse in the evenings, so they are at the dance studio at 8:00 or 10:00 at night. Who will say that the male dancers can rehearse in the evenings, but the women should not?

Suddenly, we are back into the corsets which bind and restrict us. Corsets such as the thought that women cannot defend themselves.

However, what are the "socially acceptable" methods for women to defend themselves? "Carry a fingernail file or a whistle." Suggest to a man that he should carry a fingernail file for defense and you will realize the sexism of such thought. "Study Karate." I'm a dancer; I know how long it takes to become skilled in a physical activity. But what if you're not young, strong,

and skilled? Almost anyone can learn to use a firearm safely and effectively. And often just the sight of the firearm will cause an attacker to change his mind, and the attack is averted without hurting either party.

I first handled a firearm about 10 years ago. Before then, my attitude towards firearms was rather like someone's attitude towards a dead rat: "I don't want to touch it or see it." But I realized that if we were to have them in the house for defense, I'd better get on with the business of learning to handle it competently and without fear. Respect, yes; fear, no.

The tacit belief is that women shouldn't own and know how to use firearms. This is wrong. Women no longer say, "Honey, please be responsible for my safety at all times, because I'm helpless." This bill will enable women to be responsible for their safety and their lives.

ATTACH 8

PRESENTATION

MR. JOHN JEFFREY GIBBONS

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

03/11/92

Mr. Chairman, members of the committee, I am John Jeffrey Gibbons, a professor of music at Washburn University in Topeka. Since I appeared before you on February 20, two more states Kentucky and Ohio, have joined Missouri, Oklahoma and Texas in introducing legislation modeled on Florida's uniform carry law. Contrary to the hysterical predictions of Handgun Control, Inc., law-abiding citizens have been carrying their guns responsibly and safely in Florida, Mississippi, Montana, Idaho, and Oregon. As of 12/31/91, Florida issued over 112,000 permits and revoked only 117, and only 11 of those for firearms violations. Permit holders don't contribute to crime because the criminal element doesn't get permits.

The KBI has submitted its fiscal note on Senate Bill 717. The KBI estimates 1,040 applications in the first year which would generate \$130,000 with fees set at \$125. If you deduct from this figure the costs for staff, equipment, and the \$20 fee returned to local sheriffs, the program should show a positive cash flow of over \$36,000 in the first year. The fiscal note did not address service costs such as phone

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and postage, so the KBI must believe these costs will be minimal.

Some law enforcement professionals are opposed to civilian carry of firearms because they don't want civilians to suffer post-shooting trauma. This shows a callous disregard for the trauma of assault, rape, and murder that defenseless citizens face every day. I personally know both people who have been involved in justifiable shootings and people who were victims of violent crime. Senators, there is no comparison between those who successfully thwarted a crime by force and the life-long damage done to those who were helpless in the face of extreme violence. This false compassion and arrogant attitude that ordinary citizens cannot be trusted to defend their lives is shared by certain members of the medical profession who, of all people, should understand the devastation of criminal violence. People in my neighborhood find it ludicrous that a doctor, insulated from reality by his wealth and position, would seek to deny them the means to protect their lives.

Senators, the people you have heard from today are good citizens from different walks of life. There are no stereotypes here. All they want is to be allowed to legally carry the means to defend their lives. They either already know how to handle guns safely or are willing to learn. The fact that the law says she can't carry any adequate instrument of self-defense doesn't help a nurse crossing a dark hospital parking lot at 3 AM. A fair licensing system for honest citizens makes so much sense that it is a wonder we have to debate the issue at all. Thank you for your consideration.

COUNTIES LISTED ON PETITONS SUPORTING SENATE BILL 717:

Anderson
Atchison
Barton
Brown
Butler
Coffey
Cowley
Dickinson
Doniphan
Douglas
Ellis
Ellsworth
Franklin
Geary
Graham
Gove
Harvey
Jackson
Jefferson
Johnson
Kingman
Leavenworth
Mcperson
Miami
Nemaha
Osage
Pottawatomie
Reno
Riley
Rooks
Russell
Saline
Sedgwick
Shawnee
Sheridan
Sumner
Thomas
Wabaunsee
Wallace
Wyandotte

CITIES

Abilene	Highland	Ozawkie
Assaria	Hill City	Paola
Arkansas City	Holton	Pauline
Atchison	Hope	Paxico
Auburn	Horton	Perry
Augusta	Hoxie	Potter
Baldwin City	Hoyt	Prairie Village
Basehor	Hutchinson	Pretty Prairie
Belle Plaine	Junction City	Richmond
Berryton	Kansas City	Roeland Park
Bonner Springs	Kingman	Rosehill
Bucyrus	Lacygne	Rossville
Buhler	Lansing	Russell
Burlingame	Lawrence	Salina
Burlington	Leavenworth	Schoenchen
Burrton	Leawood	Scranton
Canton	Lecompton	Sedgwick
Carbondale	Lenexa	Shawnee
Chapman	Lindsborg	Silver Lake
Colby	Linwood	Smolan
Colwich	Louisburg	Soldier
Cummings	Manhattan	Spring Hill
Derby	Maple Hill	Stanley
Desoto	Mayetta	St. Marys
Dexter	McLouth	Stockton
Douglass	McPherson	Topeka
Easton	Meriden	Tecumseh
Edgerton	Merriam	Tonganoxie
Ellis	Milford	Towanda
Eskridge	Mission	Valley Falls
Eudora	Moundridge	Victoria
Gardner	Mun jor	Wakarusa
Garnett	Netawaka	Walker
Gorham	Nickerson	Wallace
Grantville	Olathe	Wellsville
Great Bend	Osawatomie	Wetmore
Grinnell	Oskaloosa	Whiting
Harveyville	Ottawa	Wilson
Hays	Overbrook	Winchester
Haysville	Overland Park	Winfield

SENATE BILL 717 CONTAINS MANY BENEFITS FOR KANSAS CITIZENS

It will give law-abiding Kansas citizens the same right to protect themselves that citizens of other states now have.

Kansas does not have provisions in its laws for the concealed carry of firearms for self defense by its citizens. Some, but not all, of the states where CCW permits are issued are: Alabama, Connecticut, Florida, Georgia, Indiana, Iowa, Maine, Massachusetts, Michigan, Mississippi, Montana, New Hampshire, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, Washington, and West Virginia. Vermont has no firearms restrictions on law-abiding residents whatsoever. Most people would feel safer in the most dangerous part of the entire state of Vermont than in the safest parts of Washington D.C., Chicago, or Wichita, where the law abiding are prohibited by law from carrying the means to defend themselves.

It will raise the cost of committing violent crime and therefore make violent crime less attractive to criminals.

Productive members of our society who have jobs, pay taxes, and support families cannot afford the risk of being convicted of a crime. They have too much to lose. When the carrying of a weapon by law-abiding citizens is a crime, there is a guarantee that they will likely be unarmed and unable to effectively defend themselves. This new permit law will remove that guarantee and make the earning of a living by violent crime less attractive to career criminals.

It will reduce the likelihood that unarmed citizens will become victims.

A person who will never own a gun will be safer under this law. He or she may have no desire to own or carry a weapon, but would-be assailants do not know this. The fact that the intended victim might be armed makes the attack less appealing.

It will be most beneficial for those who are least able to defend themselves, i.e. women and older citizens.

The majority of violent criminals are male and under 35 years of age. The imbalance of strength between people in this group and the law-abiding members of our society is greatest for women and the elderly. Fortunately, strength is an insignificant factor in firearms proficiency. A quick look at any shooting sports competition will show that a substantial number of women and older entrants place high in the results. Thus, this law will correct the imbalance of strength in a way that rape whistles and judo lessons never can.

It will benefit those who can't afford to live in the better neighborhoods.

Honest people who cannot afford to live in the neighborhoods that have low crime rates or expensive subdivisions will be able to provide for their own security at reasonable cost under this law.

It will benefit merchants and businessmen, especially those in high crime areas.

Business people with cash customers are prime targets for crime. Grocers, owners of convenience stores, and proprietors of other small businesses keeping late hours are very vulnerable as they close for the night and go to make deposits at their banks. These people have no way to protect themselves once they step outside their stores. This new law will correct this problem.

It will benefit former law enforcement and correctional officers.

Officers who have retired or left the force for other occupations are currently committing a crime if they carry a weapon, in spite of the fact that they may have criminal enemies who have sworn revenge. This law will correct this problem.

It will free up more assets of our police and court system to concentrate on arresting and convicting people who commit violent crimes.

Every minute spent arresting, processing, prosecuting, convicting, sentencing, and jailing those who only wish to provide for their own safety takes valuable time, effort, and money away from efforts to remove violent criminals from our midst.

It will reduce the number of firearm accidents and save lives.

Firearms awareness, as well as safety and proficiency training, are the surest ways to reduce the tragic accidents that come from ignorance and lack of familiarity. This law will require such training and create awareness of responsibility.

It will reaffirm the American doctrine of "innocent until proven guilty".

A person can buy a house and put their own locks on the doors, and we prohibit arbitrary searches of the premises. They may want to use this location for illegal purposes, but we do not assume this. Our citizens with no criminal record should be afforded the same courtesy regarding their personal safety.

It will restore the right of individuals to not become a victim.

People will have the means to say no to violent criminals and will not have to suffer the trauma of being a victim.

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It will help restore the public's respect for our laws in general.

Most people have never committed a crime more serious than getting a traffic ticket. They pay taxes every year. Many have children in school. Most support families, sometimes as a single parent. Many contribute to charity. Many have served in the armed forces defending our country's freedoms. Half are women. When these people are told there is no provision in Kansas law for them to effectively see to their own well-being, they lose respect for our laws in general. This is a great tragedy.

It will allow people to provide for their own defense.

I am not trying to influence people to carry a firearm if they choose not to. I do believe that the right to decide whether or not to carry a weapon for self-defense should always remain the option of the individual law-abiding citizen. Unfortunately this option is not available under current Kansas law. This law would correct this problem.

THERE ARE SEVERAL THINGS THAT SENATE BILL WILL NOT DO:

It will not result in more criminals carrying guns.

Only citizens with clean records who have received proper training will be issued permits. Criminals get no benefits (and many drawbacks) from this law.

It will not cause anyone with an aversion to firearms to alter their behavior.

Those with a dislike or fear of weapons will still be able to avoid owning and carrying them. They will be free to recommend that others also avoid owning or carrying weapons. Other law-abiding citizens will no longer be prohibited from protecting themselves if they choose to do so.

It will not result in shootings whenever there are arguments over trivial matters.

Permit holders will be required to show competence at handling firearms and will be well aware of the responsibility inherent in a CCW permit. The huge number of liability/personal injury lawyers in Kansas will act as automatic enforcement of this responsibility. This is not theory. It is fact. When other states have passed concealed-carry laws, abuse of these rights has not occurred. Florida passed this law in 1987. Florida has large urban areas and approximately five times the population of Kansas. As such, its experience is more instructive than that of a law change in a less densely populated state. In the years since the passage of the bill, violent crime has risen in the country as a whole but it has declined in Florida. This is in spite of the predictions of groups who oppose the right of the law abiding to bear arms for self-defense. Senate bill 717 is modeled on the Florida law. There is no reason to believe it would be any less successful here.

Testimony of Lieutenant Harry Thomas

March 4, 1992

My name is Harry Thomas and I am a police lieutenant in the Cincinnati Police Department, Cincinnati Ohio. I have been a member of the Cincinnati Police Department for twenty years. I have traveled here today at my personal expense to address you concerning the legislation which you now have under consideration.

You may well wonder why a police officer from Cincinnati would travel this distance for this purpose. I have several reasons which motivate me:

Ohio has no law providing for concealed carry for private citizens. I have come to realize how critically important it is for citizens to be able to carry concealed weapons. Indiana, Michigan, Pennsylvania, and West Virginia border Ohio. All four of these states permit concealed carry. My colleagues in these states confirm my discovery that the armed, honest citizen is a great deterrent to crime.

Ohio legislators are currently working on legislation similar to Missouri's House Bill 1720. I wish for my state to have such a law. If I can help Missouri join the majority of states that have such laws, it will bring Ohio one step closer.

Last of all, If the anti-gun police chiefs behave the same way in Missouri that they do in Cincinnati, there are many law enforcement officers in this state who would like to testify in favor of this legislation who dare not do so for fear of retaliation from their superiors. I have made my feelings clearly known to my superiors in Ohio, and obviously have no fear of Missouri police chiefs.

Everyone in this room is familiar with the tragedy that occurred in Killeen Texas in Luby's Cafeteria. I would like to recount for you a similar incident in which the outcome was entirely different. Many of you have not heard of it because it was virtually ignored by the mass media.

On December 17, 1991, three gunmen entered a Shoney's Restaurant in Birmingham, Alabama. They rounded up the employees and patrons of the restaurant and herded them into a walk-in freezer, apparently so that they could execute them there. The hostages might well have ended up like the victims in Killeen Texas but for one thing. The State of Alabama, unlike the State of Texas, allows the carrying of concealed firearms.

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One Shoney's hostage had a permit to carry a concealed weapon, and when that hostage saw his chance, he drew his handgun and fought for his life and the lives of his fellow hostages.

He won. One suspect was killed, a second was critically wounded, and the third fled. And all twenty hostages walked from that Shoney's Restaurant alive. --Back to their families and back to their lives. And all because one brave citizen, a brave ARMED citizen. Had such a person been in Luby's Cafeteria in Killeen, Texas, that tragedy would also have ended differently. But the presence of such a person was prohibited by Texas law, and still is today.

Ladies and gentlemen, there are some who will tell you that private citizens don't need to bear arms because the police will protect them. In the office of the Cincinnati Police Homicide Squad, you will find file cabinets. And in those file cabinets you will find the names and stories of people who are dead...dead because the police were not there to protect them. I'm sure that the story is exactly the same in St. Louis, Kansas City, and Jefferson City.

The Supreme Court of the United States has ruled that police officers have no legal obligation to protect individual citizens. It is a fact that the police of this nation can't insulate citizens from violent crime. I, as a veteran police officer, freely admit that. Because of that reality, this legislature and the legislatures of every state in the Union have an obligation to allow citizens the means to protect themselves.

Ladies and gentlemen, I urge you to approve the legislation that you now have before you for consideration. Give the citizens of Missouri a fighting chance. It will save a lot of lives.

Murder rate increases 51 percent

Violent crimes up 8.5 percent

TOPEKA (AP) — The murder rate in Kansas increased 51.3 percent during the first nine months of 1991, according to a report issued by the Kansas Bureau of Investigation.

From January through September of this year, there were 121 homicides statewide, compared to 80 during the same period last year.

The increase alarmed KBI Director James Malson.

"I think there are a lot of factors that go into this," he said on Monday. "Some of those factors are both state and local budget constraints, the worsening economy and early penitentiary releases, none of these being a cause of its own."

He also attributed the increase to an upswing in gang violence in metropolitan areas. Statistics show that Kansas and the nation are becoming more violent, Malson said.

"Society is more violent than it used to be," he said. "It's a way of life anymore. It's going to get worse."

The KBI report showed that rape was up 9 percent this year over last, robbery up 17.3 percent and aggravated assault up 4.6 percent.

Overall, the increase in violent crimes — including murder, rape, robbery and aggravated assault — during the first nine months increased 8.5 percent over the same period of 1990.

There were 9,187 violent crimes reported in Kansas from January through September, compared to 8,467 during the previous year's first nine months.

Property crime, including burglary, theft and motor vehicle, increased 5.3 percent over 1990.

Malson said increasing law enforcement budgets at both the local and state level would help reduce the rate.

"It seems like society has less and less fear of the law as time goes on," Malson said. "Fear of the penalty is not as great as it used to be."

The murder rate in Wyandotte County jumped 85.7 percent over last year. Wyandotte County had 39 murders from January through September of this year, while there were 21 in 1990.

Sedgwick County officials reported a 75 percent increase in murders, from 12 in 1990 during the first nine months to 21.

Shawnee County saw an increase in its murder rate of 33.3 percent, from nine to 12.

Johnson County, on the other hand, had a 33.3 percent drop in its homicides, from nine to six.

Overall, Wichita had an 11.3

percent increase in crime over the previous year, while Kansas City, Kan., had a 2.3 percent drop. Topeka also had an 11.3 percent increase, Overland Park 1.8 percent, Lawrence 6.9, Olathe 2.4, Salina 36 and Hutchinson 20.9.

Leavenworth had an 11.5 percent drop in crime and Shawnee a 5.8 decline. Manhattan saw a 4.4 percent increase, Lenexa a 13.4 percent drop and Emporia a 14 percent increase.

The report also includes crime rates for state campuses.

The University of Kansas reported 602 major crimes, for example, a 7 percent drop from 647 crimes committed. Kansas State University had 368 serious crimes, just one more than in 1990, representing a 0.3 percent increase.

At Wichita State University,

there were 168 major crimes in 1991 through September, a 13.5 percent increase from the 148 reported during the first nine months in 1990.

At the University of Kansas Medical Center in Kansas City, Kan., there were 209 serious crimes reported, a 12.4 increase over the 186 reported the previous year.

Emporia State University had 128 major crimes, a 3.8 percent drop percent. Last year there were 133 major crimes reported on the campus. Fort Hays State University reported 63 major crimes reported, a 4.6 percent drop over the 1990 figure of 66.

Pittsburg State University had 77 major crimes, a 30.5 percent increase over the 1990, when 59 were reported.

Committee will review battered women in prison

TOPEKA (AP) — Gov. Joan Finney plans to appoint a committee to review the sentences of women who are in prison for murdering their husbands to determine if they were suffering from the battered-woman syndrome.

Anne Cook, a special assistant to Finney, said Monday that 14 other states have established such committees. She said the Kansas committee will be appointed as soon as

the governor's office receives more background information from those states and about the battered-woman syndrome.

Battered-woman syndrome is a psychological condition caused by prolonged exposure to violence. Women suffering from abuse at the hands of their husbands or boyfriends often resort to violence after their relationships place them in life-or-death situations.

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The largest mass murder in this country wasn't the 22 people in Killeen, Texas. It was the 87 people murdered in New York two years ago this month. The weapon was something available in Kansas to any ten-year-old with five dollars in his pocket: A can of gasoline. We trust a child with a substance capable of mass destruction, but if his seventy-year-old grandfather who fought in WWII carries ten ounces of steel in his pocket that can stop a criminal attack against him, he is committing a crime. This is crazy.

We always hear about when criminals use guns. Senate Bill 717 does not involve criminals, only trained law-abiding citizens. We should focus on what happens when honest people use guns. You may have heard about what happened in the Shoney's in Alabama. Cases like this may not be newsworthy, but they're not classified information either. There are police reports on them. Why don't criminologists study these reports to see what happens when honest people use guns?

The answer is, some of them do. Professor Gary Kleck is a criminologist at Florida State University. He compiles and studies incidents of self defense in this country. By looking at a tremendous number of incidents, he has shown what happens to victims of assault when they react in different ways. He has found that of all possible courses of action, the victim of a robbery or an assault is most likely to prevent the crime from being completed and avoid injury to himself if he uses a gun to resist. Another enlightening truth uncovered by Professor Kleck concerns tear gas and electric stun guns. Mace and stun guns are less effective than either trying to reason with the attacker or verbally threatening him.

Professor Kleck's studies also show just how frequently private citizens use handguns to stop criminals. His research suggests that about 645,000 Americans every year use handguns for protection from burglars, robbers, rapists, assaultants, and would-be murderers. If this figure sounds high to you remember, we live in a state where it is illegal to carry a gun for self-defense so the stopping of criminal activity goes unreported most of the time. Professor Kleck's research also shows that 98% of these cases occur with no death or injury to anyone. Realize, too, that in virtually all of these 645,000 cases, honest people are using guns to stop serious violent crimes--not crimes like shoplifting, auto theft, embezzlement, credit card fraud, or tax evasion.

Many of the people I have talked with on this issue realize that violent crime is on the rise in our society. They are also aware that nothing can be done by our legal system until after the crime has been committed. Most citizens would agree that it is better to stop a violent crime before it happens than to arrest a criminal after someone has suffered and become a victim. There is no reason to believe that citizens of Kansas are any less trustworthy than citizens of other states.

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6 March 1992
Senator Wint Winter, Jr. and Senator Edward F. Reilly, Jr.
State Capitol
Topeka, KS 66612

Dear Senators Winter and Reilly:

Just a short note at the start of this legislative session to express our total support for Senate Bill 717, which provides a formal mechanism for law-abiding citizens to be issued a permit to carry a concealed handgun. We recognize that at first thought this may appear to be a wholly undesirable thing for the legislature to consider, but there are, we feel, good reasons for its adoption.

The provisions of the bill have carefully been structured so that the licensing procedure is rigorous. It amounts to far more stringent controls (including fingerprinting, police records check, and prohibitions against abusers of drugs or alcohol being licensed) than presently are required to obtain a State drivers license (which all the undersigned hold), a Federal pilot license (held by two of the undersigned) or even State or Federal narcotics licenses (both of which are held by one of the undersigned). We feel this rigor is appropriate, and believe that anyone meeting the criteria for such licensing should certainly be considered of sound enough character and judgement to be entrusted with the carrying of a concealed firearm.

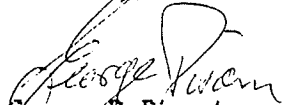
Additionally, a late '80s Federal Justice Dept. study indicated that private citizens using or displaying firearms halted or mitigated the commission of over 600,000 crimes nationally, and a fair proportion of those were by citizens in states which had licensed them to carry a concealed firearm. We feel that the empowerment of such a carefully regulated subset of Kansas citizenry would be a useful adjunct to existing law enforcement presence in matters of personal defense.

It might be argued that such licensing of citizens would turn the State into a wild west show. We feel that given the stringent licensing provisions mentioned above, this would be a totally irresponsible and groundless allegation. If anything, we feel that a greater abundance of trained, responsible, armed citizens would make criminals reconsider the advisability of threatening harm to someone who appears a helpless victim. Shortly after Florida enacted a well-publicized similar law several years ago (despite the anticipated negative hype and hysteria from much of the press), the incidence of muggings, etc. declined sharply. Career criminals are deviant, but generally are not stupid, and the potential gain from a robbery would not be worth the risk of being held at gunpoint for the police by an intended victim!

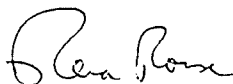
In conclusion, we ask that you lend your support to Senate Bill 717, and have asked that our friends and associates who also favor this bill write to their Senators to do likewise.

Thank you very much.

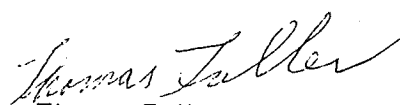
Sincerely,



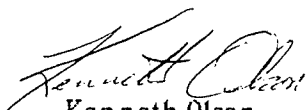
George R. Pisani
809 Connecticut
Lawrence, KS 66044



Rena Rouse
525 Lakeshore Drive
Ozawkie, KS 66070



Thomas Fuller
1746 Mississippi
Lawrence, KS 66044



Kenneth Olson
2708 Century Drive
Lawrence, KS 66049



William McGregor
RR 1, Lakewood Hills #331
Ozawkie, KS 66070

"I Want to Feel Safe Again"

Desperate times call for desperate measures.

One woman's views on carrying a gun. BY ROBIN ARQUETTE

I bought a gun today. It feels foreign and cold. I've never owned one and I'm not happy about it. In fact, I resent the need to arm myself. Why have I?

It began when I read that a young woman from my hometown was abducted while unloading groceries from her car. Two weeks later, she was found dead. The men convicted of her murder admitted kidnapping her for their snuff video.

Soon after, a local student was walking home from class when a man approached her from behind, threw her into his car and drove her into the mountains. She was raped repeatedly, then stabbed 18 times. Despite critical injuries, she survived to testify against her assailant.

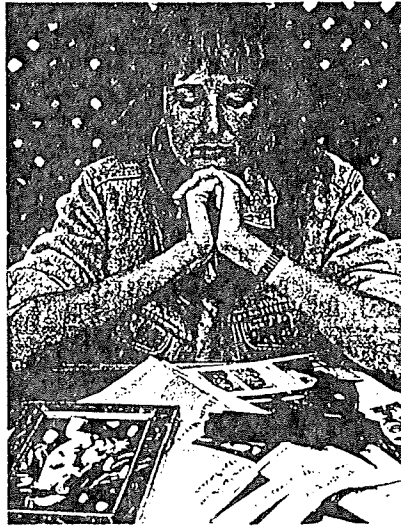
Recently, an 18-year-old honor student, driving home from a friend's house, was chased by another car and shot twice through the head. One of the men arrested for her murder said they'd shot her on a dare.

That girl was my sister.

Such stories are no longer unusual. In 1990, approximately 23,400 Americans were murdered. As the storm clouds of mania and hostility blow through our neighborhoods, we bar our windows, bolt our doors and organize neighborhood crime-watch programs. We drive our children to school out of fear for their safety. We give up simple pleasures, like jogging or walking in the evening, to avoid becoming targets.

As the world has changed, so have I. I can no longer claim, "That would never happen to me!" The women whose tragedies I've cited weren't engaging in illegal activities on the fringes of society—and they didn't "ask for it." They were minding their own business in good parts of town, trying to live their lives as normally as possible.

So, what are we to do? We still must venture out to buy groceries, go to school and work or visit friends and relatives. We can no longer ignore the danger and hope it goes away. To take no action to protect ourselves is to de-



The author's new gun sits atop newspaper clips and a photograph of the sister who inspired the purchase.

cede by default to become a victim if the fickle finger of fate picks us out. Women are already at a disadvantage; we are physically weaker than men and prone to nurture, not harm. The predators are armed and ready to attack so we have to balance the power.

In an effort to improve my odds of survival, I enrolled in a woman's self-defense class. We learned a few knee kicks and eye gouges, but "scream" and "run" were recommended over fighting. Most females just aren't a match for armed assailants.

Next, I considered carrying Mace, but studies show it is more likely to infuriate an attacker than to stop him. A stun gun sounded appealing; it can immobilize without inflicting permanent injury. But you have to touch your assailant with it. Since men's arms are generally longer than women's, chances are you'll be restrained or have the weapon used against you.

Still I resisted buying a gun until I read about a woman motorist stranded on the Interstate. As she signaled for help, a man stopped, threw her into the car's trunk and drove away. When he fi-

nally opened the trunk, she shot him with the gun she carried in her purse.

I was fascinated. I hadn't realized how accustomed I'd become to hearing of yet another woman's demise. I'd almost come to believe nothing could be done. But this woman was different. She'd planned for potential danger and reclaimed her own life.

Her experience convinced me to buy my own gun. I plan to practice at a target range until I know exactly what I'm doing. I'll also try to prepare myself psychologically to use it.

I realize that owning a gun is not an option for everyone. In some states, they're not available. There are other considerations too. Last year, firearms led to 12,000 suicides and 2,000 accidental deaths in this country. More than half the murders were committed by relatives or others the victim knew.

My married sister is more frightened of an accident involving her two small children than of intruders. She has no guns in the house. But my neighbor, who was raised around guns, believes her children can be educated about firearms the same way they're trained to beware of matches or knives.

It's a personal choice. Since I'm single and live alone, my own need for safety is the primary concern. I realize that a gun does not provide the ideal protection in all circumstances, but desperate times call for desperate measures. In a physical confrontation, the person with the gun will probably win.

I hope I never have to use my gun. I'd like to think that we'll get tired of hiding and cringing and will take action to purge the violent criminals from our midst. Until then, we must take responsibility for our own safety.

Would my sister or her counterparts be alive today if they'd been carrying guns? It's hard to say. The outcome would surely have depended upon their willingness to use their weapons and their ability to reach them in time. But, at least, they'd have had a chance.

If I'm ever in the same position they were, I want to have such a chance. **WD**

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COMPARISON OF ROBBERY AND HOMICIDE RATES BETWEEN SELECTED
U.S. CITIES WITH RESTRICTIVE AND NONRESTRICTIVE FIREARMS
LAWS/ENFORCEMENT

Based on 1989 F.B.I. Uniform Crime Reports and City Police

No gun law, in any city, state, or nation, has ever reduced violent crime, or slowed its rate of growth, compared to similar jurisdictions without such laws. Indeed, most such laws are defended with citations of the number of persons denied lawful access to handguns, while crime trends are ignored. With a virtual handgun ban, enforced with federal aid, from 1976 to 1990 the murder rate in Washington, D.C., has risen almost 200% with 1989 and 1990 seeing the city record the highest murder rates in the history of American big cities. Handgun use in homicide rose from about 55% to nearly 80%. Since it became a felony to go outside New York to evade the city's virtual handgun ban, handgun use in homicide has risen from 27% to over 65%, and the homicide rate has risen three times as fast as the rest of the country's. With 3% of the population, New York City accounts for one-eighth of handgun-related murders. The two crimes most feared by Americans are murder in the course of another crime (50%) and robbery (43%) (1978 DMI poll); robbery and robber-murder rates are consistently higher in cities with restrictive firearms laws and/or hostile enforcement of such laws.

CITIES: RESTRICTIVE GUN LAWS/ENFORCEMENT
Rates per 100,000

	Homicide	Robbery
Newark	34.1	1692.2
New York City	25.9	1267.2
Detroit	60.0	1144.9
Washington, D.C.	71.9	1082.9
Chicago	24.8	1057.1
Baltimore	34.3	1043.9
Boston	17.1	1011.2

CITIES: LENIENT GUN LAWS/ENFORCEMENT

Tulsa	8.7	386.6
Wichita	9.8	313.0
El Paso	8.0	220.9
Austin	6.6	217.3
Corpus Christi	7.2	216.5
Omaha	6.5	179.9
Colorado Springs	3.2	122.5

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U.S. COMPARED WITH FOREIGN COUNTRIES

Criminologists studying the firearms issue reject simple comparisons of violent crime among foreign countries. (James D. Wright, et al., Under the Gun, 1983). "Gun control does not deserve credit for the low crime rates in Britain, Japan, or other nations...Foreign style gun control is doomed to failure in America; not only does it depend on search and seizure too intrusive for American standards, it postulates an authoritarian philosophy of government fundamentally at odds with the individual, egalitarian... American ethos." (David Kopel, "Foreign Gun Control in American Eyes," 1987)

Gun laws and firearms availability have no relationship with murder or suicide rates. Most states bordering Canada have homicide rates similar to their northern neighbors, despite much higher rates of firearms availability. While the American homicide rate is 4-8 times that of most European nations, and firearms are frequently involved in American murders, America's violent crime rates are even higher for crimes where guns are infrequently (robbery) or rarely (rape) involved. The difference is violence, not firearms; and America's system of revolving door justice.

England has twice as many homicides with firearms as before adopting its repressive laws; yet counters rising crime by increasing strictures on rifles and now on most shotguns. During the past dozen years, handgun-related robbery rose over 200% in Britain while dropping in the U.S.

Japan's low homicide rate is accompanied by a suicide rate twice that of the United States, despite Japan's virtual gun ban. And Japan's low crime rate is attributable to police-state type law enforcement which would be anathema to Americans.

Comparisons of Seattle and Vancouver, British Columbia, homicide ignore the fact that non-Hispanic whites have a lower homicide rate in Seattle than in Vancouver, and that Vancouver's homicide rate, and handgun use in homicide, did not go down following Canada's adopting a "tough" gun law.



JAMES G. MALSON
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

STATE OF KANSAS

1620 TYLER

TOPEKA, KANSAS 66612-1837

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ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY

KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
OPPOSITION TO SENATE BILL 717
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
MARCH 11, 1992

Mr. Chairman and Members of the Committee:

I appear to day on behalf of both the Attorney General's Office and the Kansas Bureau of Investigation (KBI) in opposition to Senate Bill 717. I have been in law enforcement since 1980 and have seen the tragedies caused by momentary anger, alcohol, drugs and carelessness.

As an Assistant Attorney General, I was in charge of licensing and issuing concealed weapons permits for private investigators for approximately three years. Upon being assigned to the KBI Narcotic Strike Force almost two years ago, I was commissioned as a law enforcement officer, and have received the training given to law enforcement officers concerning the responsibilities of carrying a gun and utilizing lethal force. I have given classes on the use of lethal force to various law enforcement agencies around the state, as well as the Kansas Law Enforcement Training Center. I've been to the autopsies and spoken with the families.

Senate Bill 717 fails to realistically deal with the deadly serious consequences and responsibilities that accompany carrying a concealed weapon. Basic firearms training for law enforcement officers involves 32 hours on safe handling, firing, drawing, retention of handguns, case and statutory law on the use of lethal force.

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Law enforcement officers are routinely required to have twenty hours a year in both range and classroom instruction, are held to strict standards in their ability to both accurately shoot and accurately assess whether shooting is appropriate. In comparison, Senate Bill 717 requires no testing and training requirements can be satisfied by a ten hour class on hunter safety or having served in the military thirty years ago. I would submit that such training has little application to the responsibilities involved.

Carrying a concealed weapon and the resulting access to lethal force is a terrible responsibility. Not only officer safety, but public safety will suffer if Senate Bill 717 is passed. For example, approximately three years ago a Kansas City, Kansas security guard, who presumably had the training which would be recognized under Section 3(a)(8)(d) of this bill, shot and killed a juvenile who had slapped a video game at an arcade in a Kansas City, Kansas mall. Obviously, mistakes happen wherever humans are involved. The number of such tragedies will only increase if thousands of individuals are walking our streets with ready access to lethal weapons with an understanding of lethal force formed by Dirty Harry and Rambo.

I do not doubt that there are a number of citizens who have a real need for the ability to carry a concealed weapon. Over the years I have received literally hundreds of calls from people like bankers with night deposits and couriers carrying jewelry. Even men selling fully automatic weapons to law enforcement wanted to know how they could go about getting

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a license to carry a concealed weapon in Kansas. Such citizens can demonstrate a need and would be willing to obtain appropriate training, two criteria missing in Senate Bill 717.

To give out concealed weapon carry permits without so much as taking an exam, as is required for a driver's license would not be a service to the citizens of this state.

The bill itself raises some questions as to its enforcement procedures. The bill requires no conviction in the last three years for drugs or crimes of violence. So, if a person was convicted of possession of LSD 37 months ago, the KBI could not deny them a license. If a person was convicted of a drive-by shooting, which as this committee is aware, generally results in only a criminal damage to property charge, then under this bill there is nothing we could do to deny the license. Section 4C2 provides for a sheriff to voluntarily provide information he or she feels may be pertinent to issuance of a concealed carry permit. But, the bill also states that licenses can only be denied under Section 3 criteria, which does not include such sheriff reports. Therefore, even if a sheriff were to risk the liability of a libel lawsuit, to inform us that the applicant was a known drug trafficker, who had on previous occasions beaten his wife, would be unable to deny that license.

Finally, the KBI is not an administrative agency. We do not wish to become one. Besides the cost of operating such a licensing operation, which would presumably would be covered by the fee, there is the question of litigation and liability rising from the KBI's issuance of licenses to

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carry concealed weapons if a licensee gets drunk, high, angry or crazy I don't know of a victim's attorney, if you are granting the license, who is not going to say we contributed to the situation that resulted in the victim's loss. I believe the KBI has enough expenses and difficulties just doing our jobs of investigative crimes without inviting additional litigation.

I would be happy to answer any questions.

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**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

Attach. 10

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Chairman Reilly and Members, Senate Committee on Federal and State Affairs
FROM: Jim Kaup, League General Counsel
RE: SB 717--Concealed Weapons
DATE: March 11, 1992

By action of its Governing Body, the League of Kansas Municipalities appears in opposition to Senate Bill 717. The League finds the bill objectionable both from a public safety standpoint and as an unnecessary and harmful intrusion upon Home Rule.

I. State Licensure to Carry Concealed Weapons

SB 717 proposes to create a statutory right to carry concealed handguns and other weapons. This right would be held by any Kansan licensed by the State to carry that weapon. The KBI would be required, by Section 2 of SB 717, to issue a license to any adult Kansan who "desires a legal means to carry a concealed weapon or firearm for lawful self-defense" if that Kansan can pass basic screening related to prior felony convictions, alcohol or drug use, mental and physical condition and proof of completion of a firearms or hunter safety or training course.

A large number of cities in Kansas have ordinances which parallel the state law crime of unlawful use of weapons, K.S.A. 21-4201. That statute generally makes the carrying of a concealed weapon a crime. SB 717 proposes to create a large exception to that law to allow, upon licensure, most Kansans to carry concealed weapons into most places in this state. SB 717 would, obviously, invalidate many such ordinances to the extent they conflict with the exercise of this new statutory right.

The League does not offer testimony today regarding how many of the 60 million handguns in this country are owned by Kansans. Nor do we know how many Kansans would exercise this new right to carry their handgun, or other weapons, concealed on their person. Nonetheless, it is entirely reasonable to assume SB 717 would put more guns on the streets than there are now. Police officers will know that more of the drivers they pull over for traffic offenses will have a handgun on them. Shopkeepers will know that more of the people coming through their doors will be armed. SB 717 proposes to prohibit carrying a concealed weapon onto a few specified areas (e.g. a courtroom or elementary school) but is it reasonable to believe the licensee will understand it is lawful to carry a concealed handgun into a convenience store but unlawful to take it into a tavern, okay to carry it into a restaurant but not into a high school gymnasium, lawful to take it into a nursing home or hospital but not into a polling place, okay to take it to a city park or playground but not into the city council meeting room?

We believe any proposal which would result in more guns being carried into public places is a dangerous threat to the public's safety. We think the logic of that position speaks for itself.

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II. State Preemption of Local Authority

The League would object to SB 717 even if it did not propose to prevent local lawmaking regarding the carrying of concealed weapons. However, the fact that Section 11 of SB 717 proposes to preempt local action makes that particular section of the bill the most offensive to our member cities.

The League is a staunch defender of Constitutional Home Rule. Our advocacy for the effective, lawful use of that power of self-government is found in the following excerpts from the League's convention-adopted 1991-1992 Statement of Municipal Policy:

We believe the governing of public affairs should be as close to the people as possible and that home rule is essential to vigorous, effective and responsible local government under our representative system. Home rule is crucial to the continued ability of locally elected officials to solve local problems in ways most appropriate to local needs and conditions. ... The League shall oppose any direct or indirect attempt to limit or restrict the constitutionally granted home rule authority of cities. ... We oppose any legislative efforts to restrict or preempt local home rule authority to regulate firearms, including the possession or discharge of firearms in public places within cities.

A. Home Rule in General.

Home rule, granted to cities by the voters of Kansas in 1960, is predicated on the assumption that matters of local affairs and government should be open to local solution and experimentation to meet local needs. Different communities may perceive a problem differently and therefore adopt different measures to address the problem. Those local situations, undertaken in compliance with the Kansas Constitution, should remain free from interference by those who disagree with the particular approach chosen by the people of a particular community.

The Kansas Home Rule Amendment does not prohibit the legislature from enacting laws relating to local affairs and government. The state and a city may both legislate on the same subject. In the event of conflict between local law and state law, the state law prevails. The Kansas legislature has the final and ultimate power, but the Home Rule Amendment places restraints on the manner in which the legislature exercises this final control.

B. Home Rule Powers of Kansas Cities to Regulate Firearms.

Municipal regulation of firearms is well-recognized as a lawful exercise of the general police power, justified as protective of the general welfare. Such regulation has been long-recognized as lawful in Kansas, preceding home rule by many years. For example, an 1887 decision of the Kansas Supreme Court, City of Cottonwood Falls v. Smith (36 Kan. 401) was one of the first cases upholding the power of cities to enact ordinances prohibiting the discharge of firearms within city limits.

One of the most detailed examinations of the Home Rule Amendment by the Kansas Supreme Court deals with this issue of laws regulating firearms. The decision in that case, Junction City v. Lee, 216 Kan. 495 (1975), stands not only as controlling law on the scope and use of constitutional home rule in Kansas, it also provides, as is noted below, language that

reveals the Court's sensitivity to the need for the people, through their local governments, to be able to respond to local conditions and circumstances that demand local solutions:

The governing bodies of some cities may conclude they are sufficiently protected by the state statutes on weapons control but that is their business. Evaluation of the wisdom or necessity of the Junction City enactment of a weapons control ordinance more rigid than statutory law is not within our province, although the city fathers undoubtedly were aware of the fact that in situations where passions or tempers suddenly flare easy accessibility of weapons, whether carried openly or conceal, may contribute to an increased number of fatalities, and further that their own problem is rendered more acute by the presence of an adjoining military reservation from whence combat troops trained in the use of handguns and knives sometimes repair to the city during off-duty hours.

III. Constitutional Right to Bear Arms For Self-Defense

Section 11 of SB 717 makes several references to what appears to be an individual's constitutional right to bear arms for purposes of self-defense. The League is concerned about placing such language in the Kansas statutes when the "right" referenced to is not recognized under either the Kansas Constitution or the United States Constitution.

If the Kansas legislature wishes to see such a right established in the Kansas Constitution it may initiate that by passage of a concurrent resolution. However merely stating such a right exists does not make it so. The Attachment to this testimony provides a short analysis of how the courts have interpreted the relevant provisions of the state and federal constitutions on this point. The bottom line is clear: neither the Second Amendment to the Constitution of the United States nor Section 4 of the Kansas Bill of Rights guarantees an individual's right to bear arms.

IV. Action Requested

The League opposes SB 717 in its present form. However, if the Committee believes the risks to the public safety which can be expected to follow from placing more firearms on the streets are acceptable, then we urgently request SB 717 be amended, in order to allow local governments to continue to provide for the public's safety. This can be achieved by the deletion of the first, fourth and fifth sentences of Section 11 (page 7, lines 17:23 and 31:34).

March 11, 1992

ATTACHMENT

Federal and State Constitutional Restrictions on Firearms Regulation

- A. **The Second Amendment to the federal constitution, according to the intent of the Founding Fathers and the interpretation of the U.S. Supreme Court, guarantees states the right to maintain a well-armed militia, not individuals the right to bear arms.**

The Second Amendment states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

The intent of the framers of the Second Amendment was to establish a collective right of the people to bear arms so that the states, through their militias, could check the national standing army. In interpreting the Second Amendment, the U.S. Supreme Court has consistently held that the Second Amendment was intended to protect members of a state militia from being disarmed by the federal government. In Presser v. Illinois, 116 U.S. 252 (1886), the U.S. Supreme Court ruled that an Illinois law prohibiting fraternal military groups drilling with firearms did not violate the Second Amendment. The Court held that the Second Amendment limited only federal firearm regulations, not state regulations. Unlike other Bill of Rights provisions, the Second Amendment to the constitution has not been interpreted as applying to the states through the Fourteenth Amendment due process clause. See Adamson v. California, 332 U.S. 46 (1947). In United States v. Miller, 307 U.S. 174 (1939), the Supreme Court again reaffirmed that the purpose of the Second Amendment was to assure a continuation of state militia. In addition the Court established a standard to determine which firearms the Second Amendment protects. The Court stated that the Second Amendment does not apply unless a weapon "has some reasonable relationship to the preservation or efficiency of a well-regulated militia." Lower federal court decisions have subsequently followed the Miller court's standards.

- B. **Section 4 of the Kansas Bill of Rights does not limit the legislative power to enact laws prohibiting the carrying of arms or other deadly weapons. Similar to the U.S. Constitution, there is no guarantee of an individual's "right" to bear arms found in the Kansas Constitution.**

Section 4 of the Kansas Bill of Rights states: "The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power."

In its first interpretation of Section 4, the Kansas Supreme Court in 1905 upheld a municipal conviction of a person carrying a pistol while intoxicated. Salina v. Blaksley, 72 Kan. 230 (1905). The Court noted that: "The provision in Section 4 of the bill of rights that 'the people have the right to bear arms for their defense and security'

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4

refers to the people as a collective body. It was the safety and security of society that were being considered when this provision was put into our constitution. It is followed immediately by the declaration that standing armies in time of peace are dangerous to liberty and should not be tolerated, and that 'the military shall be in strict subordination to the civil power.' It deals exclusively with the military; individual rights are not considered in this section." 72 Kan. 231-232. (Emphasis added)

In City of Junction City v. Lee, 216 Kan. 495 (1975), the Kansas Supreme Court rejected the argument that Section 4 of the Bill of Rights is worded sufficiently different from the Second Amendment to the U.S. Constitution to create the right of an individual to carry a gun under the Kansas Constitution. Noting that the Court had long since laid the matter to rest, the Court reaffirmed the interpretation that Section 4 of the Kansas Bill of Rights refers to the people as a collective body, not as individuals.



COMMITTEE ON FEDERAL AND STATE AFFAIRS

SB 717

March 11, 1992

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The Kansas Association of Chiefs of Police is opposed to passage of SB 717. While the Association recognizes that the citizens of Kansas are concerned about their personal safety, we do not believe that the answer to those concerns is the carrying of concealed firearms or knives.

The Chiefs Association stands philosophically opposed to legislation which would legalize the carrying of concealed, lethal weapons. We recognize, however, that there are contrary philosophies to this position. Rather than focusing on these philosophical differences, which have historically elicited heated debate, we would like to concentrate on the practical problems presented by this bill. The following are representative of a few of those problems.

Firearms training or safety courses

Although Senate bill 717 would require the applicant to demonstrate completion of a firearms training or safety course, this level of training is inadequate. These courses offer sound, fundamental elements of safety, but generally provide little guidance to the full spectrum of issues involved with deadly force.

Even police officers, who receive a minimum of forty hours training in the use, judgement, and control of firearms, are killed with their own weapons and are sued for the use of excessive deadly force. Given this, it is not reasonable to expect the courses listed in this bill to provide people with the skills necessary to carry lethal weapons.

Licensure prohibitions

Senate bill 717 restricts the issuance of a license to persons with diminished mental capacity. This is a sensible approach, but relies largely on self-disclosure for compliance. Drawing again on the law enforcement experience, applicants to a police officer position are required to complete a psychological examination. One element evaluated, among others, is the applicant's emotional ability and his or her potential to act reasonably under stress.

Recognizing through experience that normally rational people often react irrationally under stress, it is incomprehensible that one would place a loaded firearm in the hand of someone who has not received proper training and who has a tendency to overreact under stress. Yet, this is what Senate bill 717 does.

Citizen safety

Since the carrying of concealed weapons is presently illegal, most police officers approach citizens with the assumption that they are unarmed, unless their overt actions indicate otherwise. Should the carrying of concealed weapons become legal, the prudent course of action in most contacts will be to assume the individual is armed.

This condition will ultimately lead to overly cautious approaches to citizens and will result in more incidents where weapons are drawn. This, in turn, will lead to more inadvertent shootings. This scenario will not be restricted to police officers, but will eventually affect the normally law abiding citizen.

It is the position of the Kansas Association of Chiefs of Police that the existing laws governing the carrying and use of lethal weapons is adequate to protect citizens in their homes and businesses. Passage of Senate bill 717 will not appreciably increase protection to the general public, but will, most probably, increase the likelihood of injuries and death.

These are but a few of the problems presented by this bill and we would urge the Committee to vote unfavorably on it.

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CLIFF HACKER, *President-Elect*
Lyon County Sheriff
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Kansas Peace Officers' Association

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The Kansas Peace Officers Association is opposed to Senate Bill No.717

First let me assure you that most members of the Kansas Peace Officers' Association are strong supporters of the constitutional right to bear arms. Many members are avid gun collectors, hunters, and shooting enthusiasts and firmly believe people should be able to engage in these activities. We believe the current laws of the State of Kansas allow the citizens of this state to enjoy these rights.

While we believe the intended purpose of Senate Bill No.717 is to provide for the self-defense of persons, we strongly believe the actual effect would be just the opposite. We believe the more people carrying concealed weapons, the more likely the use of these weapons will endanger the citizens in this state. We do not believe a firearms safety course as set out in New Section 3:(a)(8)(A-G) provides the necessary knowledge to safely carry a concealed weapon for a persons self-defense even if the course was a mandated annual requirement.

In hopes of possibly placing some of our concerns in perspective, let me explain what is required as a minimum for most law enforcement officers.

First the officer must have his weapon checked by a qualified person to determine that the weapon is in good shape and safe to use. Then the officer is made to go over all the safety features of his weapon to ensure the officer is totally familiar with the weapon. Next the officer is given a course of fire of which certain standards must be met. While this part of the training may sound similar to what is required in Senate Bill No.717, it is far more frequent and intensive than is required in Senate Bill No.717. In all law enforcement training, the officers are taught not to fire warning shots and when they shoot the purpose is to kill the suspect.

In Unity There Is Strength

Att. 12

Because of the danger of carrying a gun in the normal course of business, law enforcement then spends many more hours of training in how to avoid having to use that gun. Officers are taught deadly force should only be used as a last resort to protect the life of the officer or other citizens. Hours are spent teaching officers the continuum of force with verbal skills being the most preferred. They are taught the lowest level of force possible should be used in each situation. Officers are also taught weapon retention so their weapon can't be used against them or others. Before an officer is accepted in the law enforcement academy for certification, the officer must pass a background check and a psychological test to assure as far as possible their fitness for the job. Even with all of the on going training and evaluations, it is impossible to guarantee absolute safety for all. The carrying of concealed weapons is of enough concern to law enforcement that the Kansas Peace Officers' Association has successfully opposed legislation which would have allowed reserve law enforcement officers to carry concealed weapons off duty.

The Kansas Peace Officers' Association firmly believes the dangers involved would far out weigh the intended benefits of Senate Bill No.717 and the ramifications of such a law would be far more reaching than is apparent from just reading the bill.



Attach 13

"Service to County Government"

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John T. Torbert, CAE

TO: Senate Federal and State Affairs
Chairman Ed Reilly

FROM: Anne Smith
Director of Legislation

DATE: March 11, 1992

RE: SB 717

The Kansas Sheriffs Association, an affiliate of the Kansas Association of Counties, is opposed to SB 717.

The Sheriffs Association joins with other law enforcement agencies to express their concern regarding several aspects of this proposed legislation.

The first primary concern is the training required to obtain a license. Some of the training options available to qualify for the license are limited in scope. Many of our law enforcement feel the responsibility of carrying a firearm necessitates a more extensive, intensified amount of training than some of the options allowed for in the bill. The Sheriffs Association also foresees problems with possible illegal usage of the identification cards the applicant is required to have. Without the requirement of photos there could be increased problems with persons unauthorized to carry a firearm more easily accessing a license for usage.

Overall, the Sheriffs Association feels the legislation is not drafted tightly enough to avoid the difficulties that could arise as a result of making the law more lenient to carry a concealed weapon.

Att. 13
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