

Approved: 3-15-95
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 16, 1995 in Room 519-S of the Capitol.

All members were present except: Representative L. Candy Ruff, Excused
Representative Doug Spangler, Absent

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Superintendent Lonnie McCollum, Kansas Highway Patrol
Sheriff William L. Deppish
O. J. McCart, Kansas Peace Officers Association
Det. Dan Minter, Kansas Police Dept., Overland Park
Sheriff Loren C. Anderson,
Al Thimmesch, Kansas Peace Officers Association
Jim Kaup, City of Topeka
Harry Herington, Associate General Counsel, The League
of Kansas Municipalities

Others attending: See attached list

The Chairperson called the committee's attention to the minutes and asked them to review them and they would be approved later in the meeting.

The Chairperson stated there were six bill introductions and asked stated they would be voted on after they had all been introduced.

Representative Janice L. Pauls requested a committee bill that would designate a portion of K-96 highway be the same as the State Fair Freeway.

Representative Greg Packer requested the following committee bills: (1) concerning the employment security law; establishing a benefit ratio contribution system; amending K.S.A. 44-710a and K.S.A. 1994 Supp. 44-703 and repealing the existing sections. (2) relating to preemption and standardization by the state in firearms regulation. (3) concerning crimes and punishment; relating to theft; amending K.S.A. 1994 Supp. 21-3701 and repealing the existing section. (4) concerning firearms; requiring certain criminal history record checks before certain transfers or sales; providing for amendment of criminal history records under certain circumstances; prohibiting certain acts and providing penalties for violations.

Representative Clyde D. Graeber requested a committee bill concerning counties; relating to the office of county administrator. The board of county commissioners of any county may adopt and upon presentation of a petition requesting the establishment of the office of county administrator signed by at least 5% of the qualified electors of the county, shall adopt a resolution establishing the office of county administrator.

The Chairperson stated, without objection, so ordered, and the requests were accepted as committee bills.

The Chairperson opened the hearing on **HB 2420**.

HB 2420 - Providing for licensure to carry certain concealed weapons; prohibiting certain acts and prescribing penalties for violations.

Superintendent Lonnie McCollum, Kansas Highway Patrol testified in opposition of **HB 2420**, stating the

Highway Patrol is concerned for the safety of all law enforcement officers as well as the citizens served and would jeopardize that safety by increasing the number of times law enforcement officers would contact armed individuals.

The fact a law enforcement officer could not be aware of the intent of an individual possessing a weapon creates a potentially dangerous situation for both the officer the citizen. The lack of initial knowledge of intent would undoubtedly create unstable situations jeopardizing the safety of both the citizen and officer. (See Attachment #1)

Sheriff William L. Deppish, Geary County, testified against HB 2420 stating in 1993, according to FBI reports, there were 23,271 murders in the United States, 16,189 of those were by firearms. 13,252 of those murders were by handguns. 70 of those were law enforcement officers and 50 of those officers were killed by handguns.

Law enforcement officers carry concealed weapons but they are trained and retrained in their use. An officer must be entrusted to use his or her own judgment based on training, experience, knowledge and common sense when making this type of decision. Citizens should be qualified to do the same. (See Attachment #2)

O. J. McCart, Kansas Peace Officers Association, testified opposing HB 2420 stating KPOA's membership of 3600 represents a large cross-section of all segments of Kansas law enforcement. KPOA has traditionally opposed legislation of this type, due to rumors that law enforcement was split 50/50 on support of this issue, we polled each committee member as to his or her support or opposition of the following:

“Should there be a statute to allow private citizens to carry concealed handguns for the sole purpose of self-defense without having any other occupation or professional reason for carrying said handgun?”

Overall, concerns ranged from law enforcement safety to concern for the innocent bystanders to arguments in parking lots to just plain bad public policy. (See Attachment #3)

Detective Sergeant Dan Minter, Overland Park, Kansas Police Department, testified opposing HB 2420 stating a likely result of a citizen with a weapon trying to defend himself or herself in a sudden, frightening incident is that the citizen is disarmed by the criminal, the citizen uses the weapon against someone who does not deserve deadly force, or the citizen injures himself or herself with the weapon.

Police officers are certified to carry firearms by receiving regular training. At the Overland Park Police Department police officers are certified to carry firearms by receiving regular training. Training is conducted for all officers on a monthly basis. Because of this constant, repetitive training, police officers are much more likely than the average citizen to respond properly to the many stressful situations they encounter, and be cognizant to the need for deadly force. (See Attachment #4)

Loren C. Anderson, Sheriff, Board of Directors, District #4, Kansas Sheriff's Association, testified against HB 2420, stating much of law enforcement's time and effort is spent trying to minimize liability and at the same time, protect citizens. Officers are asked to make split-second life or death decisions and they are expected to make the correct decision. If they make a wrong decision, there is no second chance for the officer or the victim. These officers are trained continuously.

Human nature is such that individuals involved in conflict feel compelled to respond; if a weapon is available (carried) the response will include the use of a weapon. Carrying a gun, either concealed or in plain view makes a statement that they will kill. (See Attachment #5)

Al Thimmesch, Executive Officer, Kansas Peace Officers Association, testified opposing HB 2420, stating the purpose of the bill is to provide a legal means for citizens to carry concealed weapons for self-defense purposes. Many law enforcement officers question the wisdom and reasons for this. Will adding a multitude of gun carrying citizenry alleviate the problems relating to those who carry them illegally or those who victimize citizens. Law enforcement officers face the potential of armed confrontations without the need of dealing with more individuals carrying weapons for their own agendas. The intent is for self-protection, but there will be unintentional and innocent victims that will suffer.

Aside from the public safety aspect, the administration and fiscal aspects of this statute need to be considered. The proposal places the burden on the Kansas Bureau of Investigation which is already understaffed and under budgeted to handle their current statutory requirements. (See Attachment #6)

Jim Kaup, City of Topeka, stated the city is in strong opposition of HB 2420 as it is a threat to public safety and as an unjustified and harmful intrusion upon Home Rule. Home rule 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 will perceive a problem, such as gun control, differently and therefore adopt different measures to address the problem. Local solutions should remain free from interference by those who disagree with the particular approach chosen by the people of a particular community.

HB 2420 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. This bill would, obviously, invalidate the ordinances of Topeka and those other cities to the extent they conflict with the exercise of this new statutory right.

The city also objects because Section 11 proposes to prevent local lawmaking regarding the carrying of concealed weapons. It is ironic that in the midst of a legislative session filled with speeches about getting the federal government off the back of the state, and getting the state off the backs of Kansas local governments, that we have to debate a bill such as **HB 2420**. (See Attachment #7)

Harry Herington, Associate General Counsel, The League of Kansas Municipalities, testified in opposition of **HB 2420**, stating the governing body of the League of Kansas Municipalities has included in the Statement of Municipal Policy a clear opposition to any legislative efforts which would restrict or preempt local home rule authority to regulate firearms, including the possession of firearms in public places within cities. It is the League's position that the governing of public affairs concerning the carrying of firearms should remain with the public affected and that home rule is essential tool to the effective and responsible governing of obvious public safety. Home rule is crucial to the continued ability of locally elected officials to solve local problems in ways most appropriate to local needs and concerns. **HB 2420** would expressly preempt the local governing body's authority to regulate a highly important issue of local concern. (See Attachment #8)

Ronald K. Gould, Chief of Police, Winfield Police Department, submitted testimony opposing **HB 2420** (See Attachment #9)

There was committee discussion.

The Chairperson closed the hearing on **HB 2420**.

Representative Vickrey moved and Representative Samuelson seconded that the minutes of February 1, 2, 7 and 14 be approved. The motion carried.

The meeting adjourned at 3:00 p.m. and the next meeting will be February 20, 1995.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: Feb 16, 1995

NAME	REPRESENTING
Howard Dilworth	Capitol City Gun Club
Clinton Peterson	KSC
Ray Mc	
P. Mc	K P.O.A.
Dan Monteev	Overland Park Police Dept.
Al Thumman	K P.O.A.
Salvino P. Deppit	Kansas Sheriff's Assn.
Loew C. Anderson	Kansas Sheriff's Assoc
LARRY A. Fox	KHP
PAUL DEGENER	ORSEVERA
Shannon Peterson	KBA
Paul Davis	Senator Hensley
Gary Hayzlett	Dist. 132 Rep
TERRY HOLDREN	Rep. HAYZLETT'S INTER
LONNIE McCOLLUM	KANSAS HIGHWAY PATROL
STEVE RODINA	KHP
Saron Stringfellow	CWA of KS
Kyle Smith	KBI
Clark Allmang	Rep. Topliker's Intern

**Kansas Highway Patrol
Summary of Testimony
1995 House Bill 2040
before the
House Federal and State Affairs Committee
February 16, 1995**

Good afternoon Mr. Chairman and members of the Committee. My name is Colonel Lonnie McCollum, Superintendent of the Kansas Highway Patrol, and I appear before you to express the Patrol's opposition to House Bill 2040.

House Bill 2040 would allow certain persons to obtain a permit and carry a concealed firearm provided they meet certain qualifications.

The Highway Patrol is concerned for the safety of all law enforcement officers as well as the citizens we serve. We feel that House Bill 2040 would jeopardize that safety by increasing the number of times law enforcement officers would contact armed individuals.

The fact a law enforcement officer cannot be aware of the intent of an individual possessing a weapon creates a potentially dangerous situation for both the officer and the citizen. This lack of initial knowledge of intent would undoubtedly create unstable situations jeopardizing the safety of both the citizen and officer.

With these facts in mind, the Patrol respectfully requests that the committee not pass House Bill 2040.

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ELSA
2-16-95
Atch #1

Testimony before the House, Federal and State Affairs
Committee by Sheriff William L. Deppish on Thursday,
February 16, 1995

On May 8th 1993 at about 7:20 p.m., the 45 year old Chief of Police of the Potts Camp, Mississippi Police Department was fatally shot while making a traffic stop. As the 15 year veteran approached the suspect vehicle, the driver, who was known to the victim, displayed both hands through the window and then exited the vehicle. The Chief was unaware that the man was concealing a .45 caliber Haskell semiautomatic pistol. Reportedly, when they were about 3 feet apart, the male fired a single shot which struck the victim in the center of the forehead, killing him instantly.

In 1993 according to FBI reports, there were 23,271 murders in the United States, 16,189 of those were by firearms. 13,252 of those were by handguns. 70 of those were law enforcement officers and 50 of those officers were killed by handguns.

Law enforcement officers carry concealed weapons but they are trained and retrained in their use. We are required to re-certify twice a year, some departments even more. We are trained in "shoot - don't shoot", live training, night shooting, moving target training, hypothetical situation training, etc. Others who carry concealed weapons should be required to have the same training.

An officer must be entrusted to use his or her own judgement based on training, experience, knowledge and common sense when making this type of decision. Citizens should be qualified to do the same.

Very few people have the skills necessary for self-protection. This is evident in the fact that we give our wives, girlfriends, and daughters mace to carry for their protection but when over 65% of them use it, it is taken away and used on them.

Apparently many of the citizens of my county believe that this proposed law is already in effect as there is hardly a day (or night) that goes by that we do not receive a call for "shots fired." We need less guns on the street, not more.

FISA
2-16-95
Atch #2

KANSAS PEACE OFFICERS ASSOCIATION

February 15, 1995

HB 2420 House Federal and State Affairs Committee

Mr. Chairman and Members of the Committee:

My name is O. J. McCart, representing the **Kansas Peace Officers Association**, the largest professional law enforcement organization in the state. **KPOA's** membership of 3600 represents a large cross-section of all segments of Kansas law enforcement. Our 35-member legislative committee reflects this varied membership.

Although KPOA has traditionally opposed legislation of this type, due to rumors that law enforcement was split 50/50 on support of this issue, we polled each committee member as to his or her support or opposition to the following:

"Should there be a statute to allow private citizens to carry concealed handguns for the sole purpose of self-defense without having any other occupation or professional reason for carrying said handgun?"

The response was **31 opposed, 2 in favor, and 2 were neutral**. An overwhelming majority stated the concept was **not in the best interests of the public, public safety, or the safety of law enforcement officers**.

Some stated that training mentioned in this or past bills was not sufficient to handle life threatening situations where seconds and judgment can mean life or death.

Others mentioned law enforcement safety -- stopping of vehicles, walking into unknown situations -- the fact that, if this passed, an officer would have to view every citizen in a different light. Others asked about those gang members who are over 21 - we're going to legally arm them?

Overall, concerns ranged from law enforcement safety to concern for the innocent bystanders to arguments in parking lots to just plain bad public policy.

All in all, we believe KPOA is a good, fair representation of the law enforcement community in Kansas and we **urge this committee to set a public policy of safety for ALL Kansas citizens and oppose passage of HB 2420**.

Thank you for the opportunity to speak and I'll stand for questions.

FSA
2-16-95
Atch #3

COMMENTS ON HOUSE BILL #2420
FEBRUARY 16TH, 1995

MR. CHAIRMAN, MEMBERS OF THE HOUSE, FEDERAL AND STATE AFFAIRS COMMITTEE:

MY NAME IS DAN MINTEER. I AM A DETECTIVE SERGEANT WITH THE OVERLAND PARK, KANSAS POLICE DEPARTMENT, WHERE I SUPERVISE THE CRIMES AGAINST PERSONS UNIT. MY UNIT INVESTIGATES CRIMES SUCH AS HOMICIDE, ROBBERY, AGGRAVATED ASSAULT AND BATTERY AND OTHERS WHERE FIREARMS ARE USED IN THE COMMISSION OF A CRIME. I HAVE BEEN A POLICE OFFICER FOR 19 YEARS.

I AM HERE TODAY IN OPPOSITION TO SENATE BILL 2420, WHICH WOULD ALLOW INDIVIDUALS TO CARRY CONCEALED WEAPONS IN PUBLIC PLACES. ALTHOUGH I BELIEVE THIS BILL HAS GOOD INTENTIONS AND IS DESIGNED TO ENHANCE PUBLIC SAFETY, IT IS MY OPINION THAT ALLOWING INDIVIDUALS TO CARRY CONCEALED WEAPONS IN PUBLIC PLACES WILL CAUSE MANY MORE PROBLEMS THAN IT WILL SOLVE. OVER THE YEARS OVERLAND PARK HAS REPEATEDLY SUPPORTED BILLS WHICH WOULD RESTRICT THE ABILITY OF INDIVIDUALS TO CARRY CONCEALED WEAPONS.

MOST OF US ARE AWARE THAT MANY PEOPLE CARRY WEAPONS ILLEGALLY ON THEIR PERSON OR IN THEIR VEHICLES. WHEN THESE WEAPONS ARE DISCOVERED BY POLICE OFFICERS THE USUAL EXPLANATION IS THAT THEY ARE NEEDED FOR "PROTECTION." WHEN ASKED TO ELABORATE THE RESPONSE IS OFTEN A CONFUSING REFERENCE TO THE NEED FOR PROTECTION AGAINST BEING A CRIME VICTIM.

IN MY YEARS OF EXPERIENCE AS A POLICE OFFICER IN A SUBURBAN POLICE DEPARTMENT LOCATED WITHIN A LARGE METROPOLITAN COMMUNITY, I CANNOT RECALL ONE SINGLE INSTANCE WHERE AN INNOCENT CITIZEN ARMED WITH A FIREARM IN A PUBLIC PLACE SUCCESSFULLY PROTECTED HIMSELF OR HERSELF FROM A CRIMINAL. MY FOCUS HERE IS THE CITIZEN IN A PUBLIC PLACE, NOT IN A PRIVATE RESIDENCE OR OTHER LOCATION WHERE THE POSSESSION OF A WEAPON IS NOT ILLEGAL.

A LIKELY RESULT OF A CITIZEN WITH A WEAPON TRYING TO DEFEND HIMSELF OR HERSELF IN A SUDDEN, FRIGHTENING INCIDENT IS THAT THE CITIZEN IS DISARMED BY THE CRIMINAL, THE CITIZEN USES THE WEAPON AGAINST SOMEONE WHO DOES NOT DESERVE DEADLY FORCE, OR THE CITIZEN INJURES HIMSELF OR HERSELF WITH THE WEAPON.

ANOTHER MAJOR PROBLEM WITH LEGALIZING THE CARRYING OF A CONCEALED WEAPON IS THE DANGER PRESENTED TO LAW ENFORCEMENT OFFICERS. POLICE OFFICERS DEAL WITH PEOPLE UNDERGOING A WIDE RANGE OF PROBLEMS AND EMOTIONS. LEGALIZING THE CARRYING OF A CONCEALED FIREARM WOULD MEAN THAT THERE WILL BE MANY MORE GUNS HIDDEN IN PURSES, UNDER COATS, AND IN VEHICLES. THE PROBABILITY OF AN ARMED ENCOUNTER WITH SOMEONE UNDERGOING EMOTIONAL TRAUMA (SUCH AS DOMESTIC PROBLEMS, SUBSTANCE ABUSE, LOSS OF A JOB OR OTHERS) WOULD BE CONSIDERABLY HIGHER.

POLICE OFFICERS INVESTIGATE MANY ARMED ENCOUNTERS WHICH BEGIN AS SOMETHING VERY INSIGNIFICANT. A TYPICAL SITUATION IS WHEN TWO CARS

F45A
2-16-95
Atch #4

ARE TRAVELLING ON THE ROADWAY AND ONE DRIVER DOES SOMETHING INCONSIDERATE. THE PROBLEM BEGINS TO ESCALATE AS THE DRIVERS EXCHANGE HAND SIGNALS, VERBAL THREATS, AND CONTINUED DRIVING VIOLATIONS. ALCOHOL OR DRUG USE CAN AGGRAVATE THE PROBLEM, BUT OUT OF CONTROL EMOTIONS ARE JUST AS VOLATILE. AS TEMPER FLARE IT IS NOT UNCOMMON FOR A FIREARM TO BE BRANDISHED OR FIRED TOWARD THE OTHER VEHICLE, ALL BECAUSE OF WHAT STARTS OUT AS A MINOR TRAFFIC INFRACTION. WE HAVE EVEN RECEIVED REPORTS FROM PEOPLE WHO HAVE BEEN SHOT AT BECAUSE THEY BEAT SOMEONE TO A PARKING SPOT IN A BUSY MALL PARKING LOT.

I HAVE A GOOD FRIEND, A FELLOW POLICE OFFICER, WHO STOPPED A SUSPICIOUS CAR LATE ONE EVENING AND WAS SHOT BY THE DRIVER, WHO HAD A CONCEALED WEAPON IN THE CAR. I HAVE ANOTHER FRIEND WHO WAS CHECKING AN OCCUPIED VEHICLE IN A PARK LATE ONE NIGHT. THE PASSENGER PULLED A CONCEALED HANDGUN AND WAS SHOT BY THE OFFICER BEFORE THE WEAPON COULD BE USED AGAINST HIM. BOTH OF THESE PEOPLE WOULD HAVE PROBABLY QUALIFIED FOR A LICENSE TO CARRY THEIR CONCEALED WEAPONS, AS LISTED IN THIS BILL.

POLICE OFFICERS ARE CERTIFIED TO CARRY FIREARMS BY RECEIVING REGULAR TRAINING. IN OUR DEPARTMENT THE TRAINING IS CONDUCTED FOR ALL OFFICERS ON A MONTHLY BASIS. BECAUSE OF THIS CONSTANT, REPETITIVE TRAINING POLICE OFFICERS ARE MUCH MORE LIKELY THAN THE AVERAGE CITIZEN TO RESPOND PROPERLY TO THE MANY STRESSFUL SITUATIONS THEY ENCOUNTER, AND BE COGNIZANT TO THE NEED FOR DEADLY FORCE.

I WOULD SUGGEST THAT, INSTEAD OF CITIZENS BEING ARMED WITH CONCEALED WEAPONS IN PUBLIC PLACES, THEY CALL THE POLICE AND PROVIDE ACCURATE DESCRIPTIONS OF SUSPECTS AND SUSPECT VEHICLES, LICENSE NUMBERS AND DIRECTION OF TRAVEL. WITH THIS INFORMATION THE POLICE WILL GENERALLY BE ABLE TO LOCATE AND ARREST THE SUSPECT. THE CITIZEN WILL NOT RISK HAVING HIS OR HER WEAPON TAKEN AWAY BY A CRIMINAL, OTHER CITIZENS IN THE AREA WILL BE MUCH LESS LIKELY TO BE AFFECTED BY ERRANT GUNFIRE, AND EMOTIONAL CONFRONTATIONS WITH OTHERWISE LAW ABIDING PEOPLE WILL NOT RAPIDLY ESCALATE INTO AN ARMED ENCOUNTER.

THANK YOU VERY MUCH FOR ALLOWING ME THE OPPORTUNITY TO COMMENT ON THIS ISSUE.

LOREN C. ANDERSON, SHERIFF
BOARD OF DIRECTORS
DISTRICT #4
KANSAS SHERIFF'S ASSOCIATION

Much of law enforcement's time and effort is spent trying to minimize liability and at the same time, protect citizens. We ask our officers to make split-second life or death decisions and we expect them to make the correct decision. If they make a wrong decision, there is no second chance for the officer or the victim.

Training is utilized continuously to prepare officers for those decisive moments, however, the frequency of episodes involving weapons directly affects the number of mistakes that occur.

Human nature is such that individuals involved in conflict feel compelled to respond; if a weapon is available (carried) the response will include the use of a weapon. My personal belief is that a number of situations may not have been deadly had the good samaritan not have been carrying a concealed weapon.

Many times I have been asked by citizens for a permit to carry a concealed weapon. I explain that permits are not available and they may carry the weapon in plain view. Also, they must remember that concealed or in plain view, they are making a statement that they will kill. Most respond by saying, "Oh, I'm not going to kill anyone, I just want some protection."

We are currently dealing with more and more incidents of students' carrying concealed weapons to school with tragic results. Are we prepared to set an example which sends them the message that concealed weapons are ok? This message will be interpreted as is our drinking age law. The law says they cannot drink until they are 21, yet they drink because we do.

We should strive to decrease the number of weapon-related incidents rather than creating additional opportunities for weapons to be involved.

I ask you to consider the serious ramifications of passage of such a law and urge you not to pursue this simply because other states have.

Persons who do not choose to carry a weapon have the right to know who does.

F45A
2-16-95
Atch #5

Committee Hearing
HB 2420 February 16, 1995

Mr. Chairman, Committee members

My name is Al Thimmesch. I am currently and have been since 1985, an executive officer of the Kansas Peace Officers Association. I started in law enforcement in 1961 with the Wichita Police Department, retiring in 1988 as Deputy Chief. I am here to offer testimony in opposition to House Bill 2420.

As I read the bill, the purpose is to provide a legal means for citizens to carry concealed weapons for self-defense purposes. I and many others in law enforcement question the wisdom and reasons for this. You, as law makers, have the responsibility of enacting legislation that provides for the common good and/or safety of all citizens of this state. In doing this, you have to look at both the intent of the law and more importantly the impact it's implementation will have.

Will adding a multitude of gun carrying citizenry alleviate the problems relating to those who carry them illegally or those who victimize citizens. Put yourself in the place of the Law Enforcement officers that deal with societies problems on a daily basis. They already face the potential of armed confrontations without the need of dealing with more individuals carrying weapons for their own agendas.

I know the intent is for self protection, but I can assure you that this will not be the case in many situations. And, in these situations, there will often be unintentional and innocent victims that will suffer. Unlike words in a conflict, bullets cannot be taken back. How many times I have seen changes occur in individuals demeanor when a feeling of superiority exists based on numbers or weaponry. Prudent conduct is not usually a priority.

Very few of us in law enforcement mourn the demise of a criminal or his apprehension by citizens protecting themselves. We however, do not like dealing with the aftermath of a situation gone bad that has caused the loss of life or injury on unintended or innocent victims. It is almost a situation where, if we can't stop criminals from carrying guns, we should let everyone who wants to do so. will this really solve the problem. I realize that there would be restrictions, but the past has proven that where there is a will, there is a way. Suppose we apply this same logic to other prohibited activities.

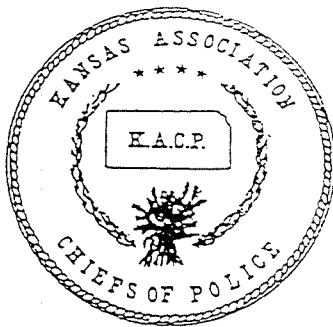
Aside from the public safety aspect, the administration and fiscal aspects of this statute need to be considered. The proposal places the burden on the Kansas Bureau of Investigation which is already understaffed and under budgeted to handle their current statutory requirements. While I was at the Police Department, it required two people to provide the services and training needed for the licensing of private security officers for just that city. Multiply this statewide. This additional burden is something we do not need.

FOSA
2-16-95
Atch #6

The Kansas Peace Officers Association's Legislative Committee voted last year to oppose this same type of bill. A poll this week found over a 95% margin again in opposition. This is a large Committee statewide within all levels and fields of Law Enforcement. I have attached a similar letter from the Kansas Association of Chiefs of Police.

Thank you for your attention.

Al Thimmesch



OFFICERS

LEE DOEHRING
President
Leavenworth

JAMES DENNEY
Vice President
K. U. Lawrence

THOMAS HAYSELDEN
Sergeant At Arms
Shawnee

ALVIN JOHNSON
Treasurer
Riley County

DOYLE KING
Executive Director
Wichita

RONALD PICKMAN
Recording Secretary/
Parliamentarian
Atchinson

RONALD JACKSON
Immediate
Past President
Newton

REGIONAL
REPRESENTATIVES

PHILIP MAJOR
Region I
Olathe

ALLEN FLOWERS
Region II
Coffeyville

DEAN VINCENT
Region III
McPherson

RICK STONE
Region IV
Wichita

LYNN MENAGH
Region V
Norton

ROGER SCHROEDER
Region VI
Garden City

February 14, 1995

Representative Sabrina Standifer
State Capitol
Topeka, KS 66612

Dear Representative Standifer,

We are pleased to inform you that the Legislative Committee of the Kansas Association Chiefs of Police has carefully reviewed the attached proposed legislation and decided to officially oppose this Bill.

On behalf of the over two hundred Chiefs of Police from all across Kansas that we are proud to represent, please feel free to utilize our opposition in any forum appropriate to the prevention of this legislation becoming law.

Please recognize that this support is extended only for the specific language of the Bill at the time of its review by our Committee. Should the Bill's language change in any way, our official opposition would need to be renewed by further analysis.

Best wishes and sincere appreciation for your commitment to working with our association to benefit the public safety of all Kansas.

Chief Rick Stone - Chairperson
Wichita P.D.
FAX #316-268-4105

Chief Delbert Fowler
Derby P.D.

Chief Gerald Beavers
Topeka P.D.

Chief J. R. Heitschmidt
Hutchinson P.D.

Chief Mickey DeHook
Hesston P.D.

Chief Ron Jackson
Newton P.D.

cc: Committee Members
President Lee Doehring



CITY OF TOPEKA

City Council
215 E. 7th Street Room 255
Topeka, Kansas 66608
Phone 913-295-3710

TO: Chairman Boston and Members, House Committee on Federal and State Affairs
FROM: Jim Kaup, City of Topeka
RE: **HB 2420--Concealed Weapons**
DATE: February 16, 1995

The City of Topeka appears in strong opposition to HB 2420. The City finds the bill objectionable both as a threat to public safety and as an unjustified and harmful intrusion upon Home Rule.

I. State License to Carry Concealed Weapons

HB 2420 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 3 of HB 2420, 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 firearm safety and training course.

Topeka, like a large number of cities in Kansas, has an ordinance (Ord. No. 16-664, amending City Code Sec. 15-91) which parallels 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. HB 2420 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. HB 2420 would, obviously, invalidate the ordinances of Topeka and those other cities to the extent they conflict with the exercise of this new statutory right.

HB 2420 is virtually identical to SB 717 from the 1992 Session. Because we have not yet heard from the proponents for concealed weapons we do not know why they believe conditions in Kansas have changed so as to justify passing a bill this Legislature rejected just three years ago.

The City does not offer testimony today regarding how many of the 67,000,000 handguns in this country are owned by Kansans. Nor does the City 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 HB 2420 would put more guns on the streets than there are now. The police officers of the City of Topeka will know that more of the drivers they pull over for traffic offenses will have handguns on them. Shopkeepers will know that more of the people coming through their doors will be armed. HB 2420 proposes to prohibit carrying a concealed weapon onto

F-5A
2-16-95
Atch # 17

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 day-care center, 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?

The obvious effect of HB 2420 is to put more guns on the streets. Given the severity of the problems this nation faces with 200,000,000 guns in the homes, businesses, cars and on the persons of Americans, one is reminded of the First Rule of Holes: When you're in one, quit digging.

HB 2420 flies directly in the face of common sense recognition that we have too many guns, not too few. That guns are too easy to acquire and carry, not too hard.

This Committee will undoubtedly hear the objections law enforcement officers have to this bill. The City will defer to them for a description of the real-world consequences of a state policy promoting carrying concealed weapons. We would remind you, however, that it is local government which will feel the effects of HB 2420. It is local governments which provide the vast majority of law enforcement. For example, Topeka has 272 law enforcement officers -- the Kansas Highway Patrol has 602 sworn officers. Kansas cities have many more times the number of police officers than the State of Kansas has. This is no surprise, as it is a fundamental purpose of local governments to protect the public's safety. 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 good logic of that position speaks for itself.

II. State Preemption of Local Authority

The City also objects strongly to HB 2420 because Section 11 proposes to prevent local lawmaking regarding the carrying of concealed weapons. It is ironic that in the midst of a legislative session filled with speeches about getting the federal government off the back of the State, and getting the State off the backs of Kansas local governments, that we have to debate a bill such as HB 2420. Make no mistake about it -- this bill is anti-local government, anti-Home Rule.

The City is a staunch defender of Constitutional Home Rule. We advocate the effective, lawful use of that power of self-government. Home Rule has been responsibly, and necessarily, used with respect to firearm regulation.

A. Home Rule in General.

Home rule 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 will perceive a problem, such as gun control, differently and therefore adopt different measures to address the problem. Those local solutions 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 the City of Topeka may both legislate on the same subject. In the event of conflict between local law and state law, the state law prevails.

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 local 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 Constitutional Home Rule Amendment by the Kansas Supreme Court dealt with this issue of city 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 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 HB 2420 makes several references to what this bill's supporters must believe to be an individual's constitutional right to bear arms for purposes of self-defense. The City objects to 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. Attachment A 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 City opposes HB 2420 and requests Committee action to kill the bill. We ask you to be respectful of and continue the 100 year-plus tradition of joint state-local regulation of firearms. Understand that by preempting local lawmaking authority and adopting a single statewide rule you are guaranteeing that the legislature will face requests each year for new laws that will address local situations and concerns -- matters which today are handled by Home Rule. 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 in the alternative we urgently request HB 2420 be amended in order to address some glaring defects in the state licensing procedure and to give the City of Topeka some means to lessen the threat this legislation poses to the citizens of this city.

1. To preserve the liberal construction clause of the Kansas Constitution favoring the exercise of Home Rule in matters of local affairs:

Delete Section 11, the first, fourth and fifth sentences, to preserve the tradition of joint local-state regulatory authority with respect to firearms. (Delete lines 26:32 and 39:42 of page 6.)

2. Premises Where Concealed Weapons Would Remain Banned. The state should not be so presumptuous to say that it knows better than 627 elected city governing bodies, and 105 elected boards of county commissioners, which local premises a person should be banned from carrying a concealed weapon.

Therefore we suggest amending Section 8 to add a subsection "(n) any other premises, property or structure when so designated by ordinance of a city or resolution of a county."

In the alternative perhaps the Committee might want to consider expressly designating the following places which are not now on the Section 8 list:

- places of worship
- funeral establishments
- city halls
- hospitals, clinics, blood banks and other medical facilities
- mental health facilities, including community centers and group homes
- day-care facilities
- publicly-owned or operated cultural or recreational facilities such as city parks and playgrounds, Topeka Performing Arts Center, Expocentre, Heartland Park Raceway
- safe houses for victims of domestic violence or child abuse

3. **Licensure and License Revocation Requirements.** Either expressly authorize local governments to adopt qualifications for licensure and license revocation in addition to those set out in Section 3, or in the alternative, add the following qualifications to those set out in Section 3:

- conviction of any crime involving the use of a firearm
- conviction of assault or battery in connection with domestic violence per K.S.A. 21-3408 or K.S.A. 21-3412 or comparable law of another jurisdiction
- conviction of child abuse, per K.S.A. 21-3609 or comparable law of another jurisdiction

4. **Public Costs.** To ensure that those who enjoy their new statutory privilege do not exercise it totally at the expense of the public:

- authorize local governments to require licensed persons to carry liability insurance
- authorize local governments to impose a concealed weapons permit fee in order to finance the new costs incurred
- authorize local governments to enact laws requiring a holder of a state concealed weapons license to identify himself or herself to the appropriate law enforcement agency upon entering the local jurisdiction

5. **Public Records.** Amend Section 5 to designate all license applications approved or denied by the KBI as records open to inspection consistent with K.S.A. 45-215 et seq.

6. **Discrimination in Licensure Qualifications.** Amend the qualifications for licensure under Section 3 to remove discrimination against persons with disabilities which appears to be violative of the Kansas Acts Against Discrimination, K.S.A. 44-1001 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

- e.g. page 1, line 36: ". . . does not suffer from a physical infirmity . . ."
page 2, lines 4: ". . . does not chronically and habitually use alcoholic beverages . . ."
page 2, lines 19:23: ". . . has not been adjudged a disabled person . . ."
page 2, lines 24:29: ". . . has not been an involuntary patient pursuant to the treatment act for mentally ill persons . . ."

ATTACHMENT A

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 interpretations 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." Subsequent lower federal court decisions have followed the Miller court's standards.

- B. **SECTION 4 OF THE KANSAS BILL OF RIGHTS does not limit the legislature's 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 to be 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' 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 differently 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.

ATTACHMENT B

Kansas seems to be on the same "concealed gun cycle" that Missouri is.

On March 25, 1992, while the Missouri legislature was considering the same bill the Kansas Senate was (SB 717), the Kansas City Star editorialized as follows:

PACKING PISTOLS

Try as hard as you can find a reason compelling enough to encourage Missourians to carry guns -- none is persuasive. The House bill to let adults obtain concealed gun licenses for self-protection is a mistake. . . .

Supporters can say it will help honest people protect themselves or use any other slogan that comforts a society under siege by drug runners, violent ne'er-do-wells and greedy barbarians. Words won't make it true.

Millions of guns already overwhelm society. Missouri and all of America are flooded with them. More people carrying weapons will not lessen that inundation. Just the opposite.

More guns mean more accidents. Thugs will turn their sidearms on the honest citizens carrying them. They will be stolen. People will relax with a false sense of security that they're taking care of themselves. Shoot-outs hit bystanders. This is an example of the kind of legislative thinking that believes "if you can't beat 'em, join 'em." Take it back to the pool halls and roadside taverns.

Three years later, as both states' legislatures again face concealed gun bills, the Kansas City Star once again spoke out against this type of legislation. Its February 6, 1995 editorial said:

DON'T OPEN THE FRONTIER

The Missouri Police Chiefs Association's position is that there is no good reason to permit the General Assembly to pass a law permitting the concealed carrying of guns. . .

The police chiefs' position is smart, sensible and sound. The organization, supported by many other anti-violence and law enforcement groups, is absolutely right. It was right last year and the year before: Statistics that soured opponents to opening up Missouri to almost unrestricted license for adults to pack guns have not changed.

Neither have arguments against this lame-brained idea that are based on solid common sense.

They include:

- There are 200 million guns in circulation, including 67 million handguns.
- The Centers for Disease Control records homicide as the fourth leading cause of premature death in the U.S.
- Between 1987 and 1990, the rate of gun-shot wounds in children doubled in the U.S.

In addition, nearly two-thirds of Missourians say citizens should not be allowed to carry concealed weapons, according to a Missouri Police Chiefs survey last year. Moreover, 76 percent of those survey respondents said that if Missouri legalizes the concealed carrying of guns, it should also require liability insurance.

The latter wouldn't keep trigger-happy combatants from killing people, but it would make it more expensive for them to do so.

Let's look at this situation honestly. Missouri has enough street violence, domestic violence, self-inflicted violence and accidental shootings under the laws now on the books. The state's citizens do not need a retreat to the era of John Wayne and wild-eyed desperadoes. Approving this measure to authorize carrying concealed weapons would shift Missouri back to the least attractive side of the state's frontier.



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

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

TO: House Federal and State Affairs Committee
FROM: Harry Herington, Associate General Counsel
DATE: February 16, 1995
RE: House Bill No. 2420 - Opposition

Good afternoon, my name is Harry Herington and I am the Associate General Counsel for the League of Kansas Municipalities. On behalf of the League of Kansas Municipalities and their 543 member cities, I would like to thank you for the opportunity to testify in opposition of House Bill 2420. The Governing Body of the League of Kansas Municipalities has included in their **Statement of Municipal Policy** a clear opposition to any legislative efforts which would restrict or preempt local home rule authority to regulate firearms, including the possession of firearms in public places within cities. It is the League's position that the governing of public affairs concerning the carrying of firearms should remain with the public affected and that home rule is essential tool to the effective and responsible governing of obvious public safety issues.

Home rule is crucial to the continued ability of locally elected officials to solve local problems in ways most appropriate to local needs and concerns. House Bill 2420 would expressly preempt the local governing body's authority to regulate a highly important issue of local concern. We therefore respectfully request that the committee pass unfavorably on this bill.

Thank you.

FSA
2-16-95
Atch #8

WINFIELD POLICE DEPARTMENT

812 Millington
Winfield, KS 67156
February 16, 1995

Ronald K. Gould, Chief of Police

Office (316) 221-5545
Fax (316) 221-5592

Honorable Committee Members;

I would like to address the issue brought forward in HB 2420 concerning the carrying of concealed weapons by citizens. Unfortunately I cannot appear before the Committee today but please accept this written testimony.

I have many specific concerns about this particular Bill, however I also have general concerns about the concept of carrying concealed weapons at all. Everyone agrees that the Constitution allows citizens the right and privilege to bear arms however I know of no provisions in the Constitution that allow specifically for carrying concealed weapons. I will not go into a philosophical discussion as to the intent of our Founding Fathers but, instead, will concentrate on the repercussions of this Bill on today's society.

Specifically let's examine certain Sections of this Bill. Section 2(b) requires that a person carry with them a valid Kansas Driver's License and their KBI license to carry a concealed weapon while they are in possession of a concealed weapon. The penalty for violation of this provision is a Class B nonperson misdemeanor. This means that every time an officer has contact with a citizen and they have a concealed weapon but no proof of legality for carrying such weapon, the only penalty is a non person Class B misdemeanor. I have found through 15 years of police experience that many citizens will not comply with licensing requirements if the penalties for not being licensed are minor. Let's consider making the penalties much more severe under this section for not obtaining or having on their person a valid license to carry a concealed weapon.

Section 3(a)(5) refers to obtaining a license under this Bill for persons committed for substance abuse or convicted of a crime under the Uniform Controlled Substances Act. This would seem to be a reasonable safeguard by not allowing anyone with a substance abuse problem to carry a concealed weapon. As we all know, however, only a small percentage of drug and alcohol abusers are identified, treated, or prosecuted. The remainder continue to struggle daily with their addictions but would now be allowed to carry concealed weapons. This presents another urgent officer safety issue for law enforcement. Our daily contact with controlled substance abusers would be escalated with the officer knowing that the person they're dealing with could legally carry a concealed weapon.

Section 3(a)(10) concerns not allowing a person who has been an involuntary patient at a mental facility to obtain a permit to carry a concealed weapon. Realistically law enforcement officers deal with more citizens who frequently voluntarily commit themselves to mental facilities or seek routine treatment from private or county mental health specialists. These persons who freely admit that they need mental health care would be allowed to carry a concealed weapon under this Bill. Surely this is not the intent of anyone.

FVSA
2-16-95
Atch #9

Honorable Committee Members
February 16, 1995
Page two

Section 3(a)(10)(c) refers to the evidence of qualification required for an individual to prove that they have completed a personal protection course. There is great leniency in the type of proof allowed under this Bill. This causes me some concern considering how much difficulty we have keeping persons from falsifying current licenses, such as driver's licenses and ID cards. This section would virtually allow for a hand written note stating they have completed this course and persons unable to obtain a license from the Bureau would create their own without ever having been through a course. This would be very difficult to verify and enforce.

Section 5(a) concerns committing the KBI to creating and maintaining another database which would be accessible to all law enforcement at all times. The KBI is currently very short on funding to complete their mandated duties already in existence. I realize there is a funding mechanism in this Bill however, I know we could spend time, money, and effort better on other criminal justice problems.

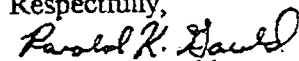
Section 7(a) requires the KBI to notify licenseholders 90 days prior to expiration of their license that their license will expire. Surely if a person is responsible enough to carry a concealed weapon they can realize when their license expires and save the state the expense of notifying them.

Section 8 lists a myriad of places that even with this permit will not allow citizens to carry a concealed weapon. I find it ludicrous that we are going to allow citizens to carry concealed weapons on the streets of our cities and yet restrict many places that they will not be allowed. It seems to me that if they are responsible enough to carry a weapon under this Bill and are issued a permit, that they could be trusted to carry it anywhere. Of course we don't want that, but how can we protect ourselves by placing these restrictions on courts, polling places, law enforcement facilities, meetings of governing bodies, and legislatures and committees thereof, and yet submit the public to this very danger from which we are protecting ourselves.

I believe that this Bill was submitted in an effort to allow citizens the ability to protect themselves. Although the intent is admirable, I question if allowing citizens to carry concealed weapons will provide any personal protection or will it instead promote more violence and perhaps inadvertent injury and deaths. If a citizen becomes involved in a "shootout" defending himself, what we have in fact allowed is more bullets to be legally spewed about our streets. If by a person defending himself an equal or greater danger is created for other good citizens, then I question the wisdom of such a law. Please do not allow our response to crime to become a greater problem than the crime itself.

Your consideration in this matter will be greatly appreciated.

Respectfully,


Ronald K. Gould
Chief of Police