

Approved: 3/24/95
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 14, 1995 in Room 531-N of the Capitol.

All members were present except:

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jacqueline Breymeyer, Committee Secretary

Conferees appearing before the committee: Camille Nohe, Assistant Attorney General
Dan Boyd, Central Kansas Investigations, Wichita
Mickey Gitlin, KS Assoc. of Private Investigators,
Overland Park, Kansas
John W. Ellis, PMO Security Services,
Roeland Park, Kansas
Jeff Gitlin, Allied Corporate Protective Service
ALCOPS, Inc. Overland Park, Kansas
Noah L. Goddard, Private Investigator and Certified
Firearms Trainer in Kansas, Lecompton, Kansas
Jerry Basson, Private Investigator, Kansas
Terry Breese, Capital Investigative Service
Donna Grayson, N.I.S.A.

Others attending: See attached list

The meeting was called to order by Senator Ramirez. He called for action on the minutes of March 9 and March 10. Senator Papay moved the minutes of March 9 and March 10 be approved as read. Senator Steffes gave a second to the motion. The motion carried.

SB 341--licensure and regulation of private detectives and agencies

Camille Nohe, Assistant Attorney General, appeared first on the bill. The Attorney General is responsible for the private detective licensing function which is handled primarily through the Kansas Bureau of Investigation. License fees go into the general fund instead of supporting the licensing function. Ms. Nohe stated that whether inadvertent or intentional, a number of the important provisions of the licensing law are deleted in the present form of **SB 341**. The attachment brought by Ms. Nohe contained deleted language that should be retained in the licensing act. Ms. Nohe also stated that the Attorney General is opposed to the provision authorizing private detectives who have a concealed weapon firearm permit to carry a badge because of the potential for confusion by the public as to who is a public law enforcement officer and who is a private detective. The conditional license provision was explained and Ms. Nohe explained that this new provision may have been intended to correspond with a proposed new licensing requirement which does not appear in the bill. The Attorney General would support such a new requirement and a conditional license which was tied to that requirement, however, the proposed conditional license in its present form is confusing. She also discussed other provisions of the bill and ended her testimony by stating the hope of the Attorney General that next year the Legislature will consider restructuring the licensing of private detectives under an independent board with members appointed by the Attorney General. The office would also like to see the fees credited to a private detective fee fund. (Attachment 1)

The chairman clarified that with the amendments listed in her attachment, the Attorney General is satisfied with the bill. Ms. Nohe replied with the one exception of the badge. The Chairman also asked Ms. Nohe if she had been given a copy of all the amendments that had been requested by the private detective group. She replied that all she had was what was contained in the present bill. She has not seen any of the proposed amendments. The Chairman stated that as he understands it, there are many changes being requested.

Ms. Nohe stated that some of the amendments in the bill were incorporated from a 1994 bill. In reply to the question of did she meet with the industry, she replied in the affirmative stating that she had met with the industry. When she had met with them what she had was their proposed draft. Discussions and comments were made after that meeting. The next thing she saw was **SB 341** which was not the same as the draft she had seen.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION Statehouse, at 1:30 p.m. on March 14, 1995.

One of the committee members commented that it will take a great deal of work to amend the bill in order to incorporate all the proposed changes. Ms. Nohe responded that she did not draft, nor did she introduce the bill.

Ms. Nohe mentioned the provision that sets up a five-year residency requirement. There are about fifteen or twenty people who have called the Attorney General's office who are moving to Kansas. She has had to tell them that under present law they are not going to be qualified because there are not five people in Kansas these people will have known.

The chairman requested Ms. Nohe to take the proposed amendments, look at them, and summarize them for him by the next day. He also stated that due to the number of the conferees, each conferee would be allowed four minutes.

Dan Boyd, Central Kansas Investigations, submitted his testimony. (Attachment 2) He stated that the bill in its present form is not the bill that the industry introduced. The industry will support the bill with the revisions it submitted. He stated that currently there are three hundred thirty-six licensed private investigators in the state of Kansas; ninety-three of those have a firearms permit. Less than twenty-five percent of the licensed private detectives earn a living in the industry. He stated that no private investigator in the state was left out of the process; many were called to solicit their opinion. The bill covers a lot of things that have needed to be changed for a long time. There have been little or no change to the present statutes for a long time. The laws need to be changed and revamped to protect the citizens of Kansas and the industry. The same twenty-five percent of the private detectives in the industry who earn their living, or their representatives, met in Topeka numerous times to work the legislation. They met with the Attorney General's office several times in the past two years. Mr. Boyd stated that the purpose of the figures he had given was that the committee might understand who might be affected by the proposed legislation.

Mr. Boyd addressed the badge issue. He stated the badges would be only for those people who carried concealed weapons. He is speaking of ninety-three people in the state who would be allowed to carry a badge. It is a safety factor. The only time it would ever be exposed is when a weapon would be drawn. If a police officer comes on the scene, he automatically assumes that the person is law enforcement. People might say there is a propensity for abuse, but he has spoken with numerous law enforcement agencies - sheriffs, and police chiefs - and every one of them without exception supports the industry. They would much rather see them have a badge. It is for identification only. It is a felony to misrepresent oneself to be a law enforcement officer.

The comment was made to the conferee that the Revisor does not take it upon himself or herself to make changes on his/her own initiative; they make changes at the behest of someone who gives direction.

One of the committee commented that the bill in the committee is not being addressed. Only the problems are being addressed. Perhaps the group could work with the Revisor and come up with a substitute bill that could be heard in subsequent days.

The Chairman stated that he was going to cancel the meeting because of this situation, but is giving the industry a hearing at their request.

The Revisor stated that the bill was drafted by one of the senior bill drafters who is very competent. He had visited with her before this meeting. It was recommended by the Assistant Revisor that he was talking to that the people that are interested in this bill meet with the Revisor's office sometime in June, after the Legislative session, and try to put this bill in order. The Revisor did not think the bill was in proper order when it was introduced. Everyone is in agreement about that. The Revisor stated that he would greatly resist any interpretation that a Revisor did anything that was incorrect or intentionally wrong; that was certainly not done.

It was reiterated that the reason for not having a hearing was the many problems associated with the bill and the fact that the groups need to get together and iron out their differences, but the industry wanted the hearing and that is where it stands at the moment.

Mickey Gitlin, Kansas Association of Private Investigators, spoke to the bill. He stated that one of the reasons why this bill is in a confused state is because despite the meetings the industry has had with the Attorney General's office and the KBI, in the middle of negotiations, a bill appears. Mr. Gitlin said he had been through this process for the past five or six years. For some reason or other the Attorney General's office is bound and determined to hamper the operations of the industry. There are committees and meetings to try to work out the differences and despite the industry's recommendations, the Attorney General gets basically what he or she wants.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION Statehouse, at 1:30 p.m. on March 14, 1995.

Two years ago legal action was filed to stop the Attorney General's office from promulgating unlawful rules and regulations. The lawsuit was dismissed without prejudice. The industry is on the brink of refileing the lawsuit because the Attorney General's office continues to violate the provisions of the Kansas administrative regulations, as well as the statutes. Mr. Gitlin stated he had been a licensed private detective in Kansas for twenty years, and has been in the licensed private detective business for forty years. He has operated without a problem anywhere until about the last five years when assist attorney generals have come into the Attorney General's office and for some reason deciding that private detectives needed to be looked at more closely. All the industry is trying to do is to run its business. The industry recognizes the need for regulation. The industry tries to help law enforcement; as a rule law enforcement likes to have them around because they do a lot of the jobs that law enforcement doesn't want to do. They cannot understand why the industry is being constantly harassed and new rules and regulations are constantly being promulgated which hamper their operations - the most recent one being the requirement for a high school education or a GED. The industry would offer the alternative of two years experience in law enforcement or working for a private detective agency. Mr. Gitlin would rather see someone who has some common sense, understands English and can write a sensible report. In summing up his testimony, Mr. Gitlin stated that the gist of his testimony is fairly obvious. The industry wants to work with the Attorney General's office. There are many differences as witnessed by all the revisions seen in the bill. **HB 273** never made it out of committee for the same reasons. Mr. Gitlin thinks that if the new Attorney General and the office has the right information they can work together without any problems. (Attachment 3)

John W. Ellis, PMO Security Services, distributed copies of his testimony. (Attachment 4) The first two pages contained educational and personal background material. He continued with the experience that he has had in becoming a licensed private investigator, listing the problems and conclusions based on personal experience with regard to regulatory agency problems. He referred to the page entitled "Private Detective Problem Areas" and stated that these are the problems areas that the industry believes are problems for private detectives operating in the State of Kansas. He enlarged on the areas of Law Enforcement Agency Orientation Interpretation Problems, Business and Individuals Exceeding Exemptions, Insurance Requirements, and Records and Reports. Mr. Ellis also went over the Bond and Insurance Statutory Requirements. They are having trouble with the insurance industry in locating insurance coverage and some companies are refusing to give coverage at all. Mr. Ellis went over the Law Enforcement Agency Records Access Issue. On the last page of the attachment entitled Attorney General Office, Mr. Ellis thinks there is a conflict of interest situation with the way the private detectives are being regulated. If they have a problem, every mechanism inside the Executive Branch to cure that problem goes back to the Attorney General's office. That leaves them with the option of going directly to the Legislature, Courts, or Governor's office.

Mr. Ellis stated that he was involved in preparing the input for the committee on the bill. He has taken the original licensing act, the material that was given to Senator Oleen, and compared both of them against **SB 341**. He doesn't know what happened or why, but there are things that appear in the bill that are not in the original licensing act, nor in the submitted material. He cannot account for where the changes came from. Mr. Ellis said that his position is that he will support **SB 341** if the revisions the industry has made are adopted. If the bill is not amended to include the revisions, he would prefer the bill be killed.

Jeff Gitlin, ALCOPS, Inc, stated he would leave his testimony for committee members to read at their leisure. (Attachment 5) The idea of the creation of this law was forced basically by the Attorney General's office which has abused and violated the current law. He was personally responsible for mailing a notice of meeting to every private detective and agency in the State. Numerous people showed up for the meetings. Through the democratic process they adopted what they thought were fair and reasonable changes to the law. He cannot account for what happened after that. The things contained in **SB 341** are not the same things voted for at the group meetings. He asked the committee for more time to get the bill changed back to where it should be, without one person speaking for everyone and without the Attorney General's office making changes without talking to them. The industry has lived with this law for twenty years and can live it for another year until it get it right.

Noah Goddard, Lecompton, submitted his testimony (Attachment 6) and spoke to the bill. He was present to express an opposing view to several parts of the bill. Mr. Goddard stated he had no input whatsoever in the bill and had a very difficult time getting a copy of it. He has major objections to the entire revisions of the bill as it now stands. He stated that he would echo some of the previous conferees thoughts and thinks the group needs to step aside for a moment, take more time and put some more detail and thought into the bill and come back to the committee with a consensus.

Mr. Goddard stated he did not belong to any of the professional organizations that purport to represent the bill and so he has not seen a copy of the amendments. Mr. Goddard was handed a copy of the amendments. He said after looking at the amendments from the group, some of his objections might change.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION Statehouse, at 1:30 p.m. on March 14, 1995.

Jerry Basson, licensed private investigator, appeared on the bill. She stated that one of the things she wanted to mention was the economic impact the bill would have on her as an independent. She feels she is being nicked and dimed towards financial ruin. One of the primary concerns is the day to day funding of her business. As an independent, she has total responsibility of paying the overhead of the business out of the revenue she generates. She does not work out of her home. The only insurance she has been able to purchase comes out of Scottsdale. It is very expensive. Her concern is that if the insurance is increased, the number of people who will become licensed in the future will decrease. This will affect the already high number of people who claim to be private investigators, who are actually working as investigators, even though they are unlicensed by the State of Kansas. With the proposed cost increases, an undue hardship is being placed on her survival. After other comments, Ms. Basson ended her testimony by thanking the committee for listening to a small independent licensed private investigator who has the same problems that affect every small business person in the state - the continuing rising cost of doing business and continuing over regulation of small business. (Attachment 7)

Terry Breese, Capital Investigative Service, spoke in opposition to the bill. There is a good deal of consensus with the group on the bill, but it is not a good mechanism as it now stands. Somewhere along the line it was changed. They need to step back and get the bill into the right format. Now they are addressing something they have no ability to change at this time.

Donna Grayson, N.I.S.A., spoke to the bill, reminding the committee that everybody in the industry was made aware of all the meetings. Everyone was invited. They wanted everyone's input and everyone's objections were made known. It was agreed at these meetings that they were going with the majority. The group would like to set up a date where they can come back and submit another bill.

One of the investigators stated he had asked for a copy of the tape of a hearing on proposed regulations, but John Kite told him he was unable to make it available. It should be available under the open records law.

Ms. Nohe asked her staff to make the tape available.

As it was time for the session to begin, the Chairman adjourned the meeting.



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CARLA J. STOVALL
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March 14, 1995

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Before the Senate Governmental Organization Committee
Re: Senate Bill No. 341

Testimony by Camille Nohe, Assistant Attorney General
on behalf of Attorney General Carla J. Stovall

Senate Bill No. 341 is the result of an initiative by a representative committee of licensed private detectives in collaboration with the Attorney General (who licenses private detectives). A review the private detective licensing law, K.S.A. 75-7b01 et seq., was undertaken with the goal of correcting numerous problematic statutory provisions. The bill accomplishes this goal through many substantive, procedural and technical amendments to the licensing law which the Attorney General supports.

However, whether inadvertant or intentional, a number of important provisions of the private detective licensing law are deleted in the present form of Senate Bill No. 341. Therefore Attorney General is supportive of Senate Bill No. 341 and urges its passage if the following deleted language is retained in the licensing act:

p. 2, line 12 - the words "or organization"

p. 3, line 10-11 - the words "or private detective agency"

p. 4, line 24-25 - the words "a statement as to the classification or classifications under which the applicant desires to be qualified;"

p. 4, line 40-41 - the words "such other information, evidence, statements or documents as may be required by the attorney general."

*Senate Governmental Organization
Attachment 1*

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p. 5, line 27-28 - the words "or, if the applicant is an organization, all of the officers, directors, partners or associates"

p. 7, line 16-17 - the words "or, if the licensee is an organization, to each of its officers, directors, partners or associates"

p. 8, line 18-19 - the words "additional information may be required by rules and regulations adopted by the attorney general."

p. 8, line 40-41 - the words "or officer, director, partner, associate or employee thereof"

p. 11, line 28-30 - the words "willfully failed or refused to render to a client services or a report as agreed between the parties, and for which compensation has been paid or tendered in accordance with the agreement of the parties."

AG Opposed

The bill also authorizes private detectives who have a concealed ~~weapon~~ ~~firearm~~ permit to carry a badge. (p. 7, line 31; p. 9, line 11-12; and p. 15, line 18-21) The Attorney General is opposed to this provision because of the potential for confusion by the public as to who is a public law enforcement officer and who is a private detective.

The bill authorizes the Attorney General to "issue a conditional license to work as an intern to a new applicant who does not meet the requirements of subsection (b) of K.S.A. 75-7b04 as long as the intern is employed by a licensed private detective agency" (p. 6, line 24-27) Subsection (b) requires five references of good moral character. However such applicant would still need to meet the basic licensing requirements of subsection (c) of K.S.A. 75-7b04 (i.e. be 21 years old, a citizen, be of good moral character, read, write and understand English, not be mentally deficient, not be dishonorably discharged from the military, comply with other qualifications established by rules and regulations of the Attorney General.)

This new provision may have been intended to correspond with a proposed new licensing requirement (either 2 years law enforcement experience or 2 years experience working for a licensed private detective or agency) which does not appear in the bill. The Attorney General would support such a new requirement and a conditional license which was tied to that requirement. However the proposed conditional license in its present form is meaningless and confusing.

As mentioned the Attorney General is responsible for the private detective licensing function. This responsibility is handled primarily through the Kansas Bureau of Investigation. Unlike all other professional licensing acts, fees paid for private detective licenses are deposited in the general fund instead of supporting the licensing function. Therefore the Attorney General requests adoption of the following provision:

The attorney general shall remit all moneys received from fees, charges or penalties to the state treasurer at least monthly. Upon receipt such deposit shall be credited to the private detective fee fund. All expenditures from such fund shall be made in accordance with appropriate acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general.

Finally the Attorney General wanted me to mention her hope that next year the legislature will consider restructuring licensing of private detectives under an independent board with members appointed by the Attorney General. She also hopes that licensing of private security guards and companies would be established under the jurisdiction of such a board.



CENTRAL KANSAS INVESTIGATIONS

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K
I

Senators what you have before you is not the bill that we in the industry introduced. We have made the proper revisions to this bill and will support it with it's revisions.

This bill is very important to our industry. There has been little or no change to the current statutes in over 20 years. Our industry has changed and modernized and the laws need to be revamped to protect the citizens of Kansas and our industry.

Currently there are 336 licensed Private Investigators in the state of Kansas with only 93 of those with a firearms permit. Be advised that less than 25 per cent of the 336 licensee's earn a living in the industry. This same 25 per cent or their representatives met and worked diligently to put this package together. I don't want you think that anyone was left out of this process. Every PI in the state was notified and many were called to solicit their opinions.

The purpose for these figures is to help you understand who will be affected, now and in the future, by this proposed legislation.

THANK YOU

Don Day

*Senate Governmental Organization
Attachment 2
3/14/95*

KANSAS ASSOCIATION OF PRIVATE INVESTIGATORS

Post Office Box 70032
Overland Park, Kansas 66207

MY NAME IS MICKEY GITLIN. I AM THE OWNER OF MY OWN COMPANY IN OVERLAND PARK. I HAVE BEEN A PRIVATE DETECTIVE FOR OVER 40 YEARS. I HAVE BEEN LICENSED IN THIS STATE FOR OVER 20 YEARS. I AM THE PRESIDENT OF THE KANSAS ASSOCIATION OF PRIVATE INVESTIGATORS, THE CHAIRMAN OF OUR LEGISLATIVE COMMITTEE AND A KANSAS RESIDENT. I SPEAK TODAY IN OPPOSITION TO SB341 IN ITS PRESENT FORM ON BEHALF OF OUR MEMBERS, AS WELL AS OTHER INDIVIDUAL LICENSED PRIVATE DETECTIVES, MANY OF WHOM HAVE NO IDEA WHATS HAPPENING HERE TODAY. AS IN THE PAST, WHEN UNFAIR OR UNREASONABLE RULES AND REGULATIONS OR STATUTES WERE INTRODUCED OUR GROUP HAS TRIED TO PROTECT ITSELF AND OTHER MEMBERS OF OUR PROFESSION FROM UNWARRANTED REGULATIONS. WE ARE NOT OPPOSED TO REGULATION. WE ARE OPPOSED TO UNNESSARY AND UNREASONABLE REGULATION. I GUESS WHAT I AM TRYING TO SAY, IN PLAIN OLD COUNTRY LANGUAGE IS, "IF IT AIN'T BROKE DON'T FIX IT". UNFORTUNATELY, SOME OF OUR LAWS ARE BROKE AND WE DO NEED TO FIX THEM. HOWEVER, NOT AT THE EXPENSE OF OR VIOLATION OF OUR CONSTITUTION RIGHTS AND PROTECTIONS.

FOR EXAMPLE: WHAT BUSINESS PERSON WOULD ALLOW BLANKET, CARTE BLANCHE AUTHORITY TO A REGULATORY AGENCY OR ANY OF ITS REPRESENTATIVES TO COME INTO HIS OR HER PLACE OF BUSINESS AND DEMAND TO SEE ALL OF THEIR BOOKS, RECORDS, TRANSACTIONS, NOTES, PAPERS, ETC.ETC.ETC....

WELL, DISTINGUISHED MEMBERS OF THIS COMMITTEE, THATS EXACTLY WHAT IS CURRENTLY IN EFFECT IN THE PRIVATE DETECTIVE LAW AND HAS BEEN

*Senate Governmental Organization
Attachment 3
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PG. #2

THERE SINCE 1975, AND IS CURRENTLY CONTAINED IN SB341 A CARRY OVER FROM 75-7B15. SEE PAGE 12 BEGINNING WITH LINE 40.

WE FEEL THIS IS NOT ACCEPTABLE, NECESSARY AND MIGHT POSSIBLY BE A VIOLATION OF THE 10TH AND 14TH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, AS WELL AS OUR RIGHTS TO PRIVACY.

THERE WAS A LITTLE MAN WITH A SMALL MUSTACHE OVER IN GERMANY DURING THE 30'S AND 40'S THAT RAN HIS COUNTRY THAT WAY. AS WELL AS MANY OTHER TYRANTS THROUGHOUT THE PAGES OF HISTORY THAT DID BUSINESS THAT WAY. IS THAT WHAT WE'RE ALL ABOUT? I THINK NOT!

I GUARANTEE THAT THERE ISN'T A LEGISLATOR AMONG YOU WHO WOULD ALLOW THIS TO HAPPEN IN YOUR BUSINESS.

WE TRIED TO CORRECT THIS BLATANT DISREGARD FOR DUE PROCESS BY CHANGING THE LANGUAGE TO READ THAT A SPECIFIC COMPLAINT IS NECESSARY. A PROPER COURT ORDER OR SUBPOENA SPECIFICALLY STATING WHAT RECORDS, BOOKS, ETC., ETC., COULD BE SEEN OR REQUESTED TO BE MADE AVAILABLE.

WE ARE IN A CONFIDENTIAL BUSINESS, OUR RECORDS, LIKE LAW ENFORCEMENT RECORDS ARE HIGHLY SENSITIVE. WE WORK FOR ATTORNEYS-DOCTORS-LAW ENFORCEMENT AGENCIES OF ALL KINDS, YES FOLKS, EVEN FOR LAW MAKERS LIKE YOURSELVES.

WE FEEL THAT OUR RECORDS SHOULD BE PROTECTED FROM INTRUSION, UNLESS THE PROPER CONSTITUTIONALLY PERMISSABLE PROCEDURES ARE FOLLOWED. AS I STATED EARLIER WE HAVE NO PROBLEM WITH REGULATION IF IT IS PROPERLY IMPLEMENTED. WE HAVE SOME PROBLEMS WITH OTHER SECTIONS OF THIS BILL TOO NUMEROUS TO DISCUSS DURING THE LIMITED AMOUNT OF TIME ALLOTTED TO US AT THIS HEARING.

PG. #3

HOWEVER I WOULD BE REMISS IN MY OBLIGATIONS TO MY ASSOCIATION IF I DIDN'T CALL YOUR ATTENTION TO ANOTHER GLARING SORE SPOT WITH US. A RECENTLY PROMULGATED AND IMPLEMENTED REGULATION REQUIRING A HIGH SCHOOL DIPLOMA OR G.E.D. TO BE ABLE TO BECOME A PRIVATE DETECTIVE: A REGULATION I MIGHT ADD THAT WAS ADOPTED OVER THE STRONG OBJECTIONS VOICED BY ME ON BEHALF OF MY ASSOCIATION AT A RECENT HEARING. A HEARING AT WHICH WITH ALL DUE RESPECT THE AGENCY THAT PROPOSED THIS REGULATION WAS THE ACCUSER, JUDGE, JURY AND EXECUTIONER. I DO NOT BELIEVE THE KANSAS ADMINISTRATIVE PROCEDURES CODE HAD THIS IN MIND WHEN THE ADMINISTRATIVE PROCEDURES WERE ADOPTED. IT IS THIS KIND OF PROBLEM THAT HAS CAUSED US TO RISE UP IN THE PAST, IN OPPOSITION TO OTHER ATTEMPTS BY THIS REGULATORY AGENCY TO PROMULGATE LEGISLATION THAT WAS INIMICAL NOT ONLY TO OUR PROFESSION BUT TO THE BEST INTERESTS OF THE RESIDENTS OF THE STATE OF KANSAS AS WELL AS MANY OTHER CITIES AND STATES IN THESE UNITED STATES.

SOME OF US DO INVESTIGATIONS AND PROVIDE SERVICES ON A NATIONWIDE BASIS. HOPEFULLY YOU CAN APPRECIATE THE FAR REACHING REPERCUSSIONS, IRRESPONSIBLE REGULATION COULD HAVE ON OUR PROFESSION.

WE SUBMITTED THIS BILL, IN THE HOPE THAT WE COULD UPDATE, CHANGE OUTDATED UNNECESSARY REGULATION AS WELL AS CERTAIN UNACCEPTABLE LANGUAGE IN THE STATUTES FOR EXAMPLE: INDIVIDUAL WHEN WE MEANT INDEPENDENT, MANUFACTURE EVIDENCE (WE FIND THIS OFFENSIVE) MAY, WHEN IT SHOULD SAY SHALL. THE REVISED LANGUAGE ALSO SHOULD BE

PG. #4

CORRECTED. WE PROVIDED SPECIFIC REVISIONS AFTER THE REVISOR REVISED LANGUAGE THEREBY CHANGING ORIGINAL INTENTIONS AND RECOMMENDATIONS. THIS BILL IS NOT THE BILL WE INTENDED TO WORK WITH.

AS A SIDE ISSUE: WHEN WE PRESENTED THE REVISED COPY TO OUR ATTORNEYS, THEY SAW CAUSE FOR ADDITIONAL REVISIONS WHICH WE HAD NOT EVEN CONSIDERED, (NOT BEING LAWYERS) ONE OF OUR ATTORNEYS POINTED OUT THAT THERE WAS ABSOLUTELY NOTHING IN THE BILL THAT GAVE US ANY PROTECTION AT ALL. HE REMINDED ME THAT WE HAD TO FILE LEGAL ACTION 2 YEARS AGO TO STOP THE ATTORNEY GENERALS OFFICE FROM PROMULGATING UNLAWFUL RULES AND REGULATIONS.

WE WITHDREW OR DISMISSED THIS LAWSUIT WITHOUT PREJUDICE TO PROTECT OURSELVES FROM THIS HAPPENING AGAIN AND UNFORTUNATELY IT HAS HAPPENED AGAIN IN SPITE OF OUR FORMER ATTORNEY GENERALS PROMISE TO US (SEE FORMER ATTORNEY GENERAL STEPHANS LETTER DATED JULY 28, 1993, ATTACHED).

I THINK IT ALL BOILS DOWN TO THIS. WE BELIEVE THE LAW SHOULD BE CHANGED. WE BELIEVE CERTAIN RULES AND REGULATIONS SHOULD BE CHANGED. WE BELIEVE THE LAW GIVES THE ATTORNEY GENERALS OFFICE POWERS THAT ARE TOO BROAD AND RESTRICTIVE TO OUR PROFESSION.

WE KNOW IT IS YOUR DUTY AND THE DUTY OF THE ATTORNEY GENERAL TO PROTECT THE PUBLIC, BUT THATS WHAT WE DO TOO. WE GO, AT TIMES, TO PARAPHRASE A LINE FROM STAR TREK, "WHERE NO LAW ENFORCEMENT MAN HAS GONE BEFORE", AND IN MOST CASES LAW ENFORCEMENT PEOPLE DO NOT WANT ANY PART OF SOME OF THE THINGS WE HAVE TO DO TO "PROTECT THE PUBLIC".

PG. #5

LET'S FACE IT DISTINGUISHED COMMITTEE MEMBERS: WE ARE NOT THE "BAD GUYS" WE'RE NOT THE ONES YOU NEED TO PROTECT THE PUBLIC AGAINST. LOOK AROUND YOU, READ THE PAPERS, WATCH TELEVISION.

WHEN WAS THE LAST TIME YOU HAVE SEEN OR HEARD OF A PRIVATE DETECTIVE COMMITTING A CRIME?

NO, LADIES AND GENTLEMEN THERE IS NO REASON WHY WE NEED TO BE UNREASONABLY REGULATED, NOR IS THERE A VALID REASON TO PROHIBIT AN INDIVIDUAL WHO HAS NOT GRADUATED FROM HIGH SCHOOL, GOTTEN A G.E.D. OR ANY OTHER DEGREE FROM WORKING IN A JOB HE OR SHE CHOOSES, AS LONG AS THE INDIVIDUAL CAN MEET ALL OF THE OTHER REQUIREMENTS AND QUALIFICATIONS THAT HAVE BEEN IN EFFECT SINCE THE FIRST PRIVATE DETECTIVE ACT WAS PASSED. IF WE ALLOW THIS CHANGE, WHERE WILL IT END? WHAT WILL THE NEXT ATTORNEY GENERAL REQUIRE, A BACHELORS DEGREE, A MASTERS, PERHAPS A PH.D.

REALISTICALLY - OUR PROFESSION NEEDS PEOPLE WITH COMMON SENSE, ABLE TO FOLLOW INSTRUCTIONS, READ, WRITE AND UNDERSTAND THE ENGLISH LANGUAGE, AND BE ABLE TO PREPARE AN INTELLIGENT INFORMATIVE REPORT. THE LEVEL OF EDUCATION REQUIREMENT SHOULD BE LEFT UP TO THE AGENCIES OR THE CLIENTS THAT EMPLOY OUR PEOPLE. IN THE WORDS OF GOVERNOR GRAVES "MY COMMITMENT TO STATE GOVERNMENT IS TO BE MISSION DRIVEN NOT RULE DRIVEN. GOVERNMENT CAN ADEQUATELY PERFORM ITS FUNCTION WITHOUT CREATING NEW AND CUMBERSOME RULES AND REGULATIONS. PART OF THE RESPONSIBILITY IN STATE GOVERNMENT IS TO ELIMINATE THE HOOPS AND HURDLES THAT DO NOTHING BUT FRUSTRATE TAXPAYERS AND PROVIDE ADDED WORK FOR GOVERNMENT EMPLOYEES. (SEE ATTACHED K.C. STAR ARTICLE DATED 2/15/95) WE BELIEVE WE FIT THESE GUIDELINES.

PG. #6

THE PRIVATE DETECTIVE BUSINESS IN KANSAS SHOULD NOT BE ANY DIFFERENT THAN ANY OTHER BUSINESS IN THIS STATE RULES AND REGULATIONS ASIDE. WE STILL HAVE TO ABIDE BY THE STATE AND FEDERAL LAWS.

ALL WE ARE ASKING IS THAT THE AGENCY YOU CHOOSE TO REGULATE OR MONITOR OUR BUSINESS SHALL BE REQUIRED TO OBEY THE SAME LAWS AND FOLLOW THE SAME RULES THAT THEY EXPECT US TO FOLLOW.

THE MAIN ISSUE IS TO PROTECT AND SERVE THE CITIZENS OF THE STATE OF KANSAS. THAT IS OUR OBJECTIVE: IT SHOULD BE THE SAME FOR THOSE WHO REGULATE OUR PROFESSION.

THANK YOU

MICKEY GITLIN
PRESIDENT
K.A.P.I.



Post-It™ brand fax transmittal memo 7671		# of pages	2
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July 28, 1993

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Mr. R. Pete Smith
 McDowell, Rice & Smith
 120 West 12th Street, 13th Floor
 Kansas City, MO 64105

Re: Stephenson, et al., v. Jack, et al., Shawnee County No. 93-CV-792

Dear Mr. Smith:

This will follow up on your conversation Friday with my Chief of Staff, Neil Woerman. As I understand it, he explained to you that I have ordered that no further action be taken to enforce proposed rules and regulations regarding licensing of private detectives in Kansas unless and until such rules and regulations are properly promulgated under K.S.A. 77-415 et seq. This means that existing requirements found in K.A.R. 16-2-1 through 16-6-1 will remain in effect until new rules and regulations are promulgated. As you are aware, K.S.A. 77-421 will provide you and your clients an opportunity to comment at a public hearing on any new rules and regulations proposed.

Further, after study of the current administration of the private investigative licensing act, I believe it is time that the process we use grow with the profession. Thus, I have asked Robert Davenport, Director of the Kansas Bureau of Investigation, to assign supervision of private detective licensing as one of the duties of an agency administrator. This administrator would be answerable to the Director, who in turn serves directly under me. This supervisor will have an attorney familiar with licensing and administrative law within my Civil Division available for legal advice and review. ~~I believe this will provide a better administrative process than asking an attorney to both administer the licensing act and serve as a legal resource.~~

XX I know you are aware that the private investigation rules and regulations require amendment to bring them up-to-date and correct procedural difficulties. I believe the proposed rules and regulations which were included as Exhibit G of the above-referenced lawsuit provide a good basis to begin such an amendment process. I hope you and your clients will provide me with input on those proposed regulations which will be

considered as we begin the process of promulgating new regulations. In addition, I would be interested in any language you might recommend to establish guidelines for "necessity for the issuance of a firearm permit," as used in K.S.A. 75-7b17. I hope to move in the process of amending these rules and regulations without delay.

There are certain elements of past practice which have not been congruous with existing regulations and which are difficult to change immediately. First, there are several persons who have been certified as firearm trainers inconsistent with current regulations. These persons spent sums of money to obtain such certification and did so in good faith that this would enable them to provide the required training. I have no intention to withdraw such certification of trainers, and I believe it is necessary to continue to allow these certified trainers to provide firearm training required by the licensing act. Second, I do not believe it would be feasible for the KBI to provide timely training of trainers this year as set forth in K.A.R. 16-5-2. By next year, I hope new regulations will be in effect with regard to such training.

I believe it is proper to take the above actions at this time. By copy of this letter to the Director of the KBI and members of my staff, I am directing that those actions relative to the administration of the private investigative licensing act take place immediately. I further believe that the above actions will render the above-referenced lawsuit moot and ask that you consider its voluntary dismissal so that we can avoid expending needless time and effort in court.

I will appreciate your continued cooperation and that of your clients in improving the administration of the private investigation licensing act in Kansas and look forward to your response.

Very truly yours,



Robert T. Stephan
Attorney General

RTS:NAW

cc: Robert Davenport
Neil Woerman
Julene Miller
John Campbell
John Bork
Melanie Jack

**PMO SECURITY SERVICES
ROELAND PARK, KS**

PRESENTATION AND COMMENTS

SENATE BILL 341

**JOHN W. ELLIS
14 MARCH 1995**

*Senate Governmental Organization
Attachment 4
3/14/95*

PERSONAL BACKGROUND INFORMATION

JOHN W. ELLIS

4-2

- EDUCATION

BS Administration of Justice; Investigations - Wichita State

Master Administration of Justice; Agency Administration - Wichita State

- SELECTED MILITARY TRAINING

Military Police Officer Basic Course

Military Police Officer Advance Course

Ordnance Officer Advance Course

Command and General Staff Officer Course

- LAW ENFORCEMENT TRAINING

Basic Enforcement Law and Criminal Investigation Course - FLETC

US Marshal Service Basic Course - FLETC

- FIREARMS INSTRUCTOR TRAINING

NRA Security Firearms Instructor Development School

Certified by NRA and Attorney General as Firearms Instructor

- PUBLICATION RESEARCH

In Progress - Research on Security Licensing Statutes, Ordinances

PMO Security Services

PERSONAL BACKGROUND INFORMATION

JOHN W. ELLIS

- POLICE EXPERIENCE

- 1 Year - Police Officer; Kingman, KS

- 1 Year - Deputy US Marshal; Louisville, KY

- 5 Years - Deputy US Marshal; Kansas City, MO

- SECURITY EXPERIENCE

- 6 Years - Hotel Security; Overland Park, KS

- 1 Year - Sole Proprietor; PMO Security Services, Roeland Park, KS

- MILITARY POLICE ACTIVE DUTY EXPERIENCE

- 2 Years - MP Lieutenant, Duty Officer (Watch Commander); Fort Riley, KS

- 1 Year - MP Captain, Provost Marshal, Operations Officer; Kingdom of Saudi Arabia

4-3

REGULATORY AGENCY PROBLEMS

BASED ON PERSONAL EXPERIENCE

4-4

- **ARBITRARY ACTIONS**
Application priority deliberately lowered
Insurance specifications changed
Firearm specifications/limitations
- **TIME DELAYS**
4-5 months to obtain application approval
- **ACTION BEYOND AUTHORITY**
Attempt to ignore/violate federal laws/restrictions
License categories (Independent/Agency) - Not specified or authorized by statute
- **UNABLE TO PROVIDE CORRECT INFORMATION**
Sole Proprietor Specification - Issued Independent not Agency
Pending Firearms Training Changes - Stated None Pending
- **APPARENT SERIOUS ATTITUDE PROBLEM**
Best seen on Firearm Permit Form - Questions
1 on police commission
6 on illegal weapons activity
4 on mental competency or substance abuse
2 on accidental discharges
1 on firearms listing
1 on certified training
0 on previous use of force training, skills, or encounters

CONCLUSIONS - REGULATORY AGENCY PROBLEMS

BASED ON PERSONAL EXPERIENCE

- INEXPERIENCED WITH REGULATORY FUNCTIONS
- UNFAMILIAR WITH BUSINESS/PRIVATE SECTOR PROBLEMS
- LACKS ADMINISTRATIVE/SUPERVISION COMPETENCE
- MAY LACK SOME RESOURCES FOR EFFECTIVE REGULATION
- CRIMINAL PROSECUTION RATHER THAN REGULATION ORIENTATION

4-5

PRIVATE DETECTIVE PROBLEM AREAS

BASED ON PERSONAL EXPERIENCE

4-6

- REGULATORY AGENCY
Law Enforcement Agency Orientation
Interpretation Problems
- BUSINESSES AND INDIVIDUALS EXCEEDING EXEMPTIONS
Law Enforcement Officers
Private Patrol Operators
Paralegals
Credit Businesses
- INSURANCE REQUIREMENTS
Fewer insurance agencies - Increased cost
Declining to write certain types of coverage
- RECORDS AND REPORTS
Access restrictions versus Regulatory requirements
Computerized record access - Information highway

BOND AND INSURANCE

STATUTORY REQUIREMENTS

4-7

- **CORPORATION BONDS - KSA 17-6302(c)**
Corporate officer fidelity bond not required
No minimum amount listed if used
- **COUNTY SHERIFF - KSA 19-801 (a)**
\$10,000 bond is only requirement
- **PRIVATE DETECTIVE REQUIREMENTS**
Exceeds requirement for both business and law enforcement
Level the playing field

AW ENFORCEMENT AGENCY RECORDS ACCESS ISSUE

STATUTORY REFERENCES

- DEPARTMENT OF HEALTH AND HUMAN SERVICES - 42 USC 1306
(a) Disclosure prohibited
- PEER (Health Systems Agencies) - 42 USC 3012
Regulatory agency review is not permitted
- FEDERAL POLYGRAPH ACT - 29 USC 2008
Regulatory agency review is not permitted
- FEDERAL FAIR CREDIT REPORTING ACT - 15 USC 1681
 - b. Permissible purposes - Does not include regulatory access
 - d. Disclosure - Required to advise in advance
 - f. Disclosure to governmental agencies - Limited information
 - q. Obtaining information under false pretenses
- COMMERCIAL MOTOR VEHICLE RECORDS - 16 CFR 600 Appendix
Employer motor vehicle reports not available
- KANSAS FAIR CREDIT ACT - KSA 50-703
Permissible purposes - Does not include regulatory access
- KANSAS OPEN RECORDS ACT - KSA 45-221
Government may not disclose (privacy recognized)

ATTORNEY GENERAL OFFICE

POSSIBLE CONFLICT OF AUTHORITY/INTEREST

- LEGAL DUTIES
Represent state in all criminal and civil actions - KSA 75-702
Review constitutionality of statutes - KSA 75-702
- BOND DUTY
Prosecute official bonds actions - KSA 75-703
- LAW ENFORCEMENT AGENCY DUTY
KBI under jurisdiction and authority - KSA 75-711
- STATUTE AUTHENTICATION DUTY - KSA 77-137
- RULES AND REGULATION APPROVAL AUTHORITY - KSA 77-420
- EXCLUSIVE REGULATORY DUTY OF PRIVATE DETECTIVES - KSA 75-7b18
- WHERE IS THE DEMOCRATIC "BALANCE OF POWER"?

ALCOPS, INC.

ALLIED CORPORATE PROTECTIVE SERVICE

6701 West 64th Street, Suite 221
Overland Park, KS 66202 • (913) 362-0104

Senate Bill # 341

I would first like to thank this committee for the opportunity to be heard on a matter that is of utmost importance to me.

My name is Jeff Gitlin. I have been a licensed private investigator in multiple states (including Kansas) for several years and presently serve as the General Manager of ALCOPS, Incorporated in Overland Park, KS. I have also spoken before this committee in the past.

Efforts to create a new detective law were essentially forced by actions in the Attorney General's office. The Attorney General's office has continually abused and outright violated the current law. We complain about these abuses and they do nothing. The staff responsible for these abuses remains in place with the new Attorney General. They hold hearings, which they tell us are only meetings to get our input. They promise us that they will not institute certain rules and regulations, then file them the next day. In ~~October~~^{November} of 1994 myself and other concerned private detectives agreed that the old statute (75-7b01) was outdated and in need of some language changes. We were promised that they would not file the considered changes that were being discussed that day. Thirty people in the room heard the same comment. The considered changes were filed that week by the assistant attorney general. When we asked for a copy of the tape from that meeting (to confirm that their promise had been broken), the tape mysteriously could not be found. I find the behavior by the Attorney General's office to be outrageous and unacceptable.

Allow me to give you some brief background information about our efforts to create a new, better private detective law:

Following the above described meeting, I personally mailed a notice of meeting to each and every licensed private investigator in the State of Kansas. Interested parties appeared at these meetings to discuss changes in the law. Through extensive discussion and the democratic voting process, we generated a rough draft of a new private detective law. Now here's the tricky part; it's not finished yet! That's right, it's not finished yet. There are certain individual private investigators that are rushing to pass this

Security Consultation • Undercover/Legal Investigations • Pre-employment Screening • Skip Tracing
Wire Sweeps • Polygraph • Shopping Service • Theater Investigations • Tenant Screening • Subpoena Service

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legislation before the masses have an opportunity to review it and comment. The bill before you is **not** the bill that was created with the input from the group meetings. The bill before you was changed both by certain private investigators and by the revisers office (with input from the Attorney General). The bottom line is that this bill needs more work. More time is needed to consider the new changes and solicit input from additional private detectives.

My suggestion is that interested private detectives should once again meet to review the bill in its current form. We should discuss these changes and vote on whether or not they are acceptable. We implemented the democratic process in the beginning; we should implement it now. No individual detective should make decisions for the majority.

There are those who will be of the opinion that 'anything' is better than what we now have. I disagree. The bill is not finished. Let us finish the bill.

PRESENTATION BEFORE THE GOVERNMENTAL ORGANIZATION
COMMITTEE CONCERNING S.B. 341, A PROPOSED REVISION OF THE
KANSAS PRIVATE DETECTIVE LICENSING ACT

MARCH 14, 1995 TUESDAY, 1:30 P.M.
ROOM 531 NORTH, CAPITAL BUILDING
TOPEKA, KANSAS

THE HONORABLE SENATORS:

AL RAMIREZ, CHAIR
MARION REYNOLDS, VICE CHAIR
BEN VIDERICKSON
MIKE HARRIS
DON STEFFES
LILIAN PAPAY
PAUL FELECIANO
U. L. GOOCH
JANIS LEE

HONORABLE SENATORS, GOOD AFTERNOON

MY NAME IS NOAH L. GODDARD

I RESIDE AT 1801 EAST 335 ROAD, LECOMPTON, KANSAS 66050-4037
PHONE 913-887-6083

I AM A LICENSED PRIVATE INVESTIGATOR AND CERTIFIED FIREARMS
TRAINER IN KANSAS.

I AM NOT A MEMBER OF NOR AM I REPRESENTED BY ANY FRATERNAL OR
PROFESSIONAL ORGANIZATION, IN KANSAS OR ELSEWHERE, WHO
PURPORTS TO REPRESENT THE VIEWS OR INTERESTS OF THE KANSAS
LICENSED PRIVATE INVESTIGATORS.

I AM HERE TO EXPRESS AN OPPOSING VIEW TO SEVERAL PARTS OF THE
BILL THAT IS BEFORE THIS COMMITTEE.

1. MY FIRST CONCERN IS SEC. 3. K.S.A. 75-7b03 (k) & (l). PARENTHESES k & l ARE NEW SECTIONS AND WOULD PERMIT PRIVATE DETECTIVES FROM ANOTHER STATE TO COME INTO KANSAS AND CONDUCT BUSINESS FOR SHORT PERIODS OF TIME WITHOUT THE REQUIRED KANSAS LICENSE.

I OPPOSE THIS ADDITION TO THE ACT BECAUSE IT WOULD BE DIFFICULT TO MONITOR AND ENFORCE. IT WOULD BE UNFAIR TO ALLOW THOSE NOT LICENSED IN KANSAS TO COME INTO THE STATE AND WORK, EVEN ON A TEMPORARY BASIS, WHILE KANSAS RESIDENTS ARE REQUIRED TO MEET THE HIGHER STANDARD OF KANSAS LICENSING.

2. SEC. 4. K.S.A. 75-7b04 (c) (4) PARENTHESIS (c) (4) REQUIRES THAT NEW APPLICANTS BE ABLE TO READ, WRITE AND COMPREHEND THE ENGLISH LANGUAGE.

I BELIEVE THAT PRIVATE INVESTIGATOR APPLICANTS SHOULD MEET A MINIMUM REQUIREMENT OF COMPLETING HIGH SCHOOL. THE NATURE OF PRIVATE INVESTIGATIONS IS COMPLEX. IN ADDITION, I BELIEVE THAT APPLICATION REQUIREMENTS SHOULD INCLUDE SOME BASIC KNOWLEDGE OF THE P.I. BUSINESS AND THAT REGULAR CONTINUING PROFESSIONAL EDUCATION SHOULD BE REQUIRED SIMILAR TO THAT OF NURSES, LAWYERS AND POLICE OFFICERS.

PARENTHESIS (e) UNDER SEC. 4. K.S.A. 75-7b04, GIVES THE ATTORNEY GENERAL AUTHORITY TO ISSUE TEMPORARY WORK PERMITS FOR A PERIOD OF 120 DAYS.

IT HAS BEEN SUGGESTED THAT THE REASON FOR ADDING THIS PROVISION IS TO COVER THE LONG WAITING PERIOD SOMETIMES

EXPERIENCED BY NEW APPLICANTS WAITING FOR THE K.B.I. TO
PROCESS THEIR APPLICATIONS.

I BELIEVE ANY PERCEIVED DELAYS IN APPLICANT PROCESSING COULD
BE DEALT WITH ADMINISTRATIVELY THROUGH COOPERATIVE EFFORTS
AMONG THE APPLICANTS, THE ATTORNEY GENERAL'S OFFICE AND THE
K.B.I. LEGISLATION IS NOT NEEDED FOR THIS PURPOSE.

PARENTHESIS (f) UNDER SEC. 4. K.S.A. 75-7b04, GIVES THE
ATTORNEY GENERAL AUTHORITY TO ISSUE A CONDITIONAL LICENSE TO
WORK AS AN INTERN WHEN SUCH APPLICANT DOES NOT MEET THE
REGULAR APPLICATION REQUIREMENTS OF K.S.A. 75-7b04 AND
AMENDMENTS THERETO.

IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS FOR LICENSING
AS SET FORTH IN K.S.A. 75-7b04 THE APPLICATION SHOULD SIMPLY
BE DENIED.

TEMPORARY WORK PERMITS AND INTERNSHIPS SHOULD NOT BE USED TO
WATER DOWN APPLICATION REQUIREMENTS. SUCH PROCEDURES WOULD
BE DIFFICULT TO MONITOR AND MANAGE AND SHOULD NOT BE INCLUDED
IN THIS LEGISLATION.

3. SEC. 5 K.S.A. 75-7b05 INCREASES THE DETECTIVE LICENSE
FEE FROM \$120.00 PER YEAR TO \$300.00 EVERY OTHER YEAR.
INCLUDED WITH OTHER OPERATIONAL COSTS, I BELIEVE THIS IS AN
UNFAIR AND UNJUSTIFIED INCREASE AND OVER BURDENSOME ON THE
SMALL OPERATOR. THIS FEE SHOULD REMAIN AT \$120.00 PER YEAR.

4. SEC. 8. K.S.A. 75-7b08 (b) (3) SEEKS TO AMEND CURRENT
PROHIBITIONS AGAINST ACCEPTING CONTINGENCY FEES BASED ON
AMOUNTS OF MONEY OR PROPERTY RECOVERED. THIS SECTION ON

CONTINGENT FEE PROHIBITION SHOULD NOT BE DELETED AS PROPOSED, BUT SHOULD REMAIN IN THE ACT.

5. SEC. 8. K.S.A. 75-7b08 (b) (4) PROPOSES TO PERMIT FIREARMS-QUALIFIED PRIVATE INVESTIGATORS TO CARRY BADGES AS PART OF THEIR IDENTIFICATION. IT WOULD BE A MISTAKE TO PERMIT USE OF BADGES WITHOUT MORE SPECIFIC ADDITIONAL REQUIREMENTS IN THE LEGISLATION.

6. SEC. 11. K.S.A. 75-7b11 (a) (1) & (2) INCREASES THE BOND AND INSURANCE REQUIREMENTS FROM \$10,000.00 TO \$100,000.00. I CANNOT SEE ANY JUSTIFICATION FOR SUCH A RADICAL INCREASE. BY COMPARISON, COUNTY SHERIFFS ARE ONLY REQUIRED TO POST A \$10,000.00 BOND. DURING MY LONG TENURE IN LAW ENFORCEMENT AND PRIVATE INVESTIGATIONS I HAVE NOT SEEN ONE COMPLAINT OF MISUSE OF A FIREARM BY A PRIVATE INVESTIGATOR. I BELIEVE IT IS OVER BURDENSOME, TOO EXPENSIVE AND UNFAIR TO REQUIRE LICENSED PRIVATE INVESTIGATORS TO HAVE A BOND TEN TIMES GREATER THAN A COUNTY SHERIFF, ESPECIALLY WHEN NO CITIZEN COMPLAINT OR MISUSE-DRIVEN JUSTIFICATION EXISTS FOR SUCH DRASTIC INCREASE.

7. SEC. 12. K.S.A. 75-7b13 (a) (4) DEALS WITH CHANGING THE WORDS MORAL TURPITUDE TO MORAL CHARACTER. MY UNDERSTANDING OF BAD MORAL CHARACTER IS A MAN HAVING AN AFFAIR WITH HIS WIFE'S SISTER. MORAL TURPITUDE IS A MAN HAVING AN AFFAIR WITH HIS WIFE'S SISTER IF THE SISTER IS SEVEN YEARS OLD. THE WORDS MORAL TURPITUDE SHOULD REMAIN IN THIS SECTION!

8. SEC. 14 K.S.A. 75-7b15 (b) PROPOSES TO DELETE THE SECTION REQUIRING A DIGEST AND PERMANENT RECORD BE MADE OF VERBAL REPORTS TO A CLIENT. PERMANENT RECORDS ARE IMPORTANT AND THIS SECTION SHOULD NOT BE DELETED BUT REMAIN AS WRITTEN AND UNCHANGED.

9. SEC. 15. K.S.A. 75-7b17 (b) PROPOSES TO INCREASE THE FIREARMS CONCEALED CARRY APPLICANTS FEE FROM \$10 TO \$50. THE TIME PERIOD FOR PERMITS WOULD EXTEND FOR TWO YEARS BUT THE FEE INCREASES BY FIVE TIMES. THIS KIND OF INCREASE IS UNFAIR AND OVER BURDENSOME FOR THE INDEPENDENT OPERATOR.

10. SEC. 19. K.S.A. 75-7b21 DEALS WITH CERTIFYING TRAINERS WHO TEACH LAWFUL USE OF FORCE AND TRAIN AND QUALIFY PRIVATE INVESTIGATORS FOR CONCEALED CARRY PERMITS. AS A CERTIFIED TRAINER AND ONE WHO HAS CONDUCTED RESEARCH ON THE SUBJECT, DEVELOPED AND TAUGHT USE OF FORCE COURSES AT COLLEGES AND UNIVERSITIES AS WELL AS POLICE ACADEMIES, I CAN SAY THIS IS A CRITICAL AREA OF LEGISLATION.

INITIAL APPLICANTS AND RENEWAL APPLICANTS FOR FIREARMS PERMITS SHOULD BE TAUGHT UPDATES ON COURT DECISIONS, HOW TO SHOOT, WHEN TO SHOOT, WHEN NOT TO SHOOT AND WHAT TO DO INSTEAD. IN ADDITION TO THE QUALIFICATIONS CURRENTLY SET FORTH IN THE STATUTE, TO BE COURT DEFENSIBLE, FIREARMS TRAINERS SHOULD POSSESS A GRADUATE DEGREE AND A MINIMUM OF TEN YEARS FIELD EXPERIENCE, WITH DOCUMENTED ADVANCED TEACHING EXPERIENCE.

11. NEW SECTION 20. THIS NEW PROPOSED SECTION CREATES A FIRE ARMS REVIEW BOARD WHICH CAUSES ME SOME DEGREE OF CONSTERNATION. I HAVE BEEN A LICENSED PRIVATE INVESTIGATOR SINCE 1989 AND A CERTIFIED FIREARMS TRAINER SINCE 1991. EACH YEAR I TRAIN APPROXIMATELY HALF OF THE 60 OR SO PRIVATE INVESTIGATORS WHO APPLY FOR CONCEALED CARRY PERMITS. DURING THAT PERIOD OF TIME I AM NOT AWARE OF ANY COMPLAINTS OF MISUSE OF FIREARMS BY LICENSED PRIVATE INVESTIGATORS.

THE REQUIREMENTS AND DUTIES OF CERTIFIED TRAINERS UNDER NEW SECTION 20 IS OVER BURDENSOME, TIME CONSUMING AND EXPENSIVE. IT MAKES NO PROVISION FOR TRAVEL OR PARKING EXPENSES, MEAL AND LODGING REIMBURSEMENTS WHEN OVER NIGHT TRAVEL MAY BE REQUIRED. I THINK THAT IS UNFAIR.

I FAVOR A BOARD MANAGEMENT CONCEPT WHEREIN THE PRIVATE INVESTIGATORS HAVE MORE INPUT INTO THE LICENSING, COMPLAINT PROCESSING AND DISCIPLINARY PROCEDURES.

SUCH A BOARD SHOULD BE MORE INCLUSIVE AND DEAL WITH ALL ASPECTS OF LICENSING, COMPLAINT PROCESSING AND DISCIPLINARY PROCEDURES.

CONCLUDING COMMENTS

REGULATION AND CONTROL OF THE PRIVATE DETECTIVE INDUSTRY INVOLVES COMPLICATED AND COMPLEX ISSUES REQUIRING CAREFUL CONSIDERATION. MY RECOMMENDATION IS THAT THIS BILL BE TABLED WHILE MORE TIME IS GIVEN TO DEVELOPING A WORKABLE STATUTE. MORE PEOPLE NEED TO BE INVOLVED IN THE PROCESS BOTH INSIDE AND OUTSIDE THE INDUSTRY, PERHAPS A TASK FORCE STUDY. YOU MAY WANT TO CONSIDER INCLUDING UNIFORMED PRIVATE GUARDS AND

PRIVATE PATROL SERVICES IN THE REVISED ACT.

THANK YOU FOR YOUR TIME AND CONSIDERATION.

SENATE BILL No. 341

MARCH 14, 1995

HEARING

GOVERNMENTAL ORGANIZATION COMMITTEE

SENATOR RAMIEREZ, CHAIRMAN

TESTIMONY OF J. GERALDINE BASSON

INDEPENDENT PRIVATE INVESTIGATOR

Good afternoon! My name is Jerry Basson; I am a licensed private investigator in the State of Kansas and have been for three years. Since becoming a Licensed Investigator, I have spent much of my time spent attending to the governmental issues of my license. I know many of my colleagues have spent as much, and some have spent more, time on these issues. It seems that every day is becoming a challenge of trying to run my business, pay my bills and maintain a certain amount of sanity in this unpredictable profession I have chosen. It seems over the last few years' expenses have continued to rise and not proportionately with income. To many a nickel here and a dime their doesn't seem to be a significant

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amount. However nickels quickly turn in to dimes and dimes into dollars.

Presently I am being nickeled and dimed towards financial ruin..

The issues with Senate Bill 341 that concern me are those with the greatest economic impact and are as follows:

- ♦ **Insurance**
- ♦ **Cost of License**
- ♦ **Temporary Permits.**
- ♦ **Increase in Firearms Permits**
- ♦ **Firearms Trainers**

Insurance: One of my primary concern is the day to day funding of my business. As an independent, I have the total responsibility of paying the overhead of my business out of revenue generated. I do not work out of my home. I have the ongoing day to day expense of an office, telephone, utilities, copiers, fax machines and INSURANCE. Presently the only Insurance that I have been able to acquire in the State of Kansas as a Licensed Investigator has been Scottsdale. I

carry \$1 million dollars of coverage. It is expensive. It cost over a \$1000 per year. It does not cover any other employees.

Why am I concerned about insurance, particularly since I am presently carrying more than the proposed amount? When I first applied for a license the requirement was either \$10,000 in insurance or a bond for \$10,000. I opted for a bond, which cost me only a \$100.00. Add this to the cost of the license \$120.00. My total cost to become a licensed Private Investigator was only \$220.00 plus a few incidentals, pictures, etc. I still had overhead to pay -- my office, phone, yellow page ad, etc. This is not a prohibitive amount, but it is substantial enough to make me consider the financial effect of my professional decision, but not substantial enough to prevent me from becoming licensed.

Should the requirement of carrying an Insurance Policy be increased, I am concerned that the number of people who will become licensed in the future will decrease. This will in-turn affect the already high number of people who claim to be Private Investigators, who are actually working as Investigators, even though they are unlicensed by the State of Kansas, will increase.

The forced cost of my staying in business will increase. I will no longer have the option of choosing a bond over the already expensive cost of INSURANCE. . As it is staying in business is an ongoing challenge. Just in the last year, I have seen my every day operational cost double and triple. Now you are proposing cost increases in increments of 25% to 400%. As a little person, in the business world, you are placing an undue hardship on my survival.

Cost of License: I do not have a problem with changing the licensing fees to cover a two year period of time. However, again, I find the increase in cost unjustified. If you double our present fee of \$120 and then compare it to the new fee of \$300. That is a 25% increase. Ladies and Gentlemen, 25% is more than just a small percentage. It is greater than a cost of living increase. If any one of you had a 25% increase on renewing your driver's license, you would scream to the Governor, to your Senator and anyone else whom had any influence over making the decision to increase your license fee.

Increase in firearms Permit: An increase from \$10 to \$50 for a Firearms Permit represents a 400% increase. Again, these are burdensome expenses that may cause a decrease in the number of INVESTIGATORS applying for a permit.

However, I sincerely doubt if it will actually decrease the number of those who are actually carrying a concealed weapon. I believe the general public would be better served by the continued licensing of those who carry firearms. Licensed Firearm Permit holders are fully known and the public is better protected because they have passed the licensing procedure.

This also brings up the requirements of a Licensed Firearms Trainer, even though I have no aspirations for being a trainer. I do believe that if their fees increase, they will in-turn pass these fees on to the person seeking training. The increase in cost may then be prohibitive to the prospective Firearms Permit Holder. This may force some of the people who are already facing financial difficulty in this limited market place to forgo the training required for licensing. They may then become another unlicensed person carrying a concealed weapon.

Issuance of Temporary Licenses: While in theory the granting of a temporary license sounds good, I believe that this will create an administrative nightmare, plus it will open the door to abuse. In the last few years we have seen the number of unlicensed investigators increase. Many of us have filed complaints with the Attorney General's Office regarding these people who operate as investigators,

advertise themselves as investigators. If complaints have not been acted upon in the past, what surety would we the law abiding private investigator, who have paid our fees, filled out the paper work, applied for licensing, and then been granted a license have that the renegades who happens to need a short term employee doesn't abuse the system? I personally would rather have the assurance that all people working as Investigators have been duly licensed and met all the requirements of a Licensed Investigator before they are on the streets calling themselves INVESTIGATORS. As it is now the system -- even with its loop holes -- has not been abused by those who are presently licensed. I believe that the limited amount of general public who use the services of Licensed Private Investigator is better served if that Private Investigator has met all of the requirements of a License. However, while I have reservations regarding Temporary Licenses, I do believe that there is a justification for the issuance of such a license. I do believe that it should not exceed 120 consecutive days in any one year. I also, believe that the person who will have the temporary license should be made fully aware that it is only a temporary license and does not guarantee them the issuance of a permanent license. I also believe that a temporary permit is for the benefit of the agency, when that agency needs additional help for a specified short term and not instead of licensed professionals.

OVERALL OBJECTIONS:

My overall objection to Senate Bill 341 is that it will increase the total operating cost for the small independent practitioner such as myself. It serves little to increase the educating of the investigator. It increases the regulations for the Investigator, when *it has YET to be established* that there have been past problems with Licensed Investigators. The new Section 20, address the appointment of a Firearm and Training Review Board to assist with actions pertaining to private detective firearms permits. It lists the members that it will be composed of, however it does not have a single peer member for the general populous of Licensed Private Investigators. Also, if we are to have a review board pertaining to firearms permit holders, we should have a Peer Review Board for all Licensed Investigators.

Thank you for listening to the testimony of a small Independent Licensed Private Investigator who has the same problems that affect every small business person in the State of Kansas -- the continuing rising cost of doing business and continuing over regulation of small business.