

Approved: March 10, 1997  
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 11, 1997 in Room 519-S of the Capitol.

All members were present except: Representative John Ballou, Excused

Committee staff present: Mary Galligan, Legislative Research Department  
June Evans, Committee Secretary

Conferees appearing before the committee: Larry Welch, Director Kansas Bureau of Investigation  
Eric Haskin  
Sheriff Dave Meneley, Shawnee County  
Jan Exby, SWARM, Kansas City Area Chapter  
Judy Morrison  
Herb Taylor  
Linda Lee Stewart  
Don Moler, League of Municipalities

Others attending: See attached list

**HB 2159 - Licensure to Carry Concealed Weapons**

The Chairperson welcomed Larry Welch, Director, Kansas Bureau of Investigation, to the committee.

Larry Welch, Director, Kansas Bureau of Investigation, gave a briefing on the KBI and emphasizing how **HB 2159** would impact the KBI operations. The legal division would have the responsibility for administration of the concealed firearms permits. Two positions needed are: an Attorney I to review the applications for compliance with the statute, conduct administrative hearings and develop rules and regulations; and a Secretary III to assist the attorney, process applications and receive licensing fees. The Records Section would be utilized to conduct records checks and would require eight additional staff persons. Two office specialists would be needed to process the fingerprint cards and six office assistants are necessary to compile the files. The investigators are needed to conduct minimal investigations into the areas covering mental illness treatment and drug and alcohol abuse as well as military and alien status. The total projected salary of the twelve personnel would be \$322,633.96 plus temporary positions for the first year which would be \$187,161. The equipment/supplies cost would be \$19,700 and the annual office expense which covers office space, copier, utilities and phone service would be \$19,140. The first year cost for printing applications, statutes and licenses for 50,000 requests is estimated at \$200,000. The cost for postage is estimated at \$100,000. The KBI does not have adequate office space in which to house the staff to administer the act.

The concealed carry bill is funded by a license fee not exceeding \$125 and this is adequate. This fund is to be utilized for implementing and administering the act. Texas and Oklahoma were contacted on the number of applications received and Texas underestimated by at least half, the number of applications returned. Both states indicated they were overwhelmed by the number of applications received. During calendar year 1995, the FBI received 28,629 requests for records for the purchase of handguns under the Brady Bill in Kansas. This number does not reflect the number of persons who already own handguns and desire to carry them concealed. It does not cover those sales of handguns not subject to Brady Bill record checks. A conservative estimate of the number of people applying for concealed carry is 20,000 for the first year. The number of requests for applicant packets is estimated at 50,000. (Attachments 1 and 2)

The Chairperson opened the continuation of the hearing on **HB 2159**.

Eric Haskin, as a proponent to **HB 2159**, testified he has been a lifelong resident of Kansas and a Kansas Highway Patrol trooper for 19 years. Mr. Haskin researched what effect this legislation would have on law enforcement officers and what effect these laws had on crime rates. It appears that concealed carry permit holders are probably much more law abiding than the population at large. Florida has issued over 380,000 permits since inception of their concealed carry law in 1987. As of January 1997, only 72 licenses have been revoked for firearms related crimes. Other states have had similar results. It appears that concealed carry permit holders are probably much more law abiding than the population at large. There has not been a single case of a permit holder assaulting a police officer. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S  
Statehouse, at 1:30 p.m. on February 11, 1997.

Sheriff Dave Meneley, Shawnee County Sheriff's Department, a proponent to **HB 2159**, stating the problem is the alarming escalation of crime and how to control it. Obviously, what has been done to this point has not stopped or slowed down what is happening in our communities. Good laws have been enacted but there is not enough funding to hire enough officers to apprehend all of the law breakers. Once there is an apprehension the criminals are released because they are allowed to sign themselves, through faulty bond procedures, or there is not enough funding to hire enough officers to apprehend all of the law breakers. Once an apprehension is made the criminals are released because they are allowed to sign themselves, through faulty bond procedures or there is not enough funding to hold them. Statistics prove a decline in violent crimes against persons after concealed weapon laws have been enacted. These statistics come from 31 states, not just one state. A criminal might think twice about robbing, raping, or accosting a citizen if they think a person can protect themselves. Not all citizens would want to carry a gun when it is explained that training and fees are required. It is felt that educational programs to both the public and law enforcement is a necessity. Carrying a weapon may create a danger to the bearer and it is a great responsibility and it needs to be stressed. The only concern is that the training and licensing fees be small enough so they do not discriminate against the poor and less fortunate, the very people that may need the protection the most. (Attachment 4)

Jan Exby, a proponent to **HB 2159** testified for herself and a national organization called Safety For Women and Responsible Motherhood who believes it is essential for women to have the options and the means to protect themselves and their families. Women do not feel safe either in the cities or the rural areas and want all options to defend themselves. Ms. Exby testified that she and another young woman were victims of rape and even when a woman lives through rape, she faces death because of the threat of AIDS. Three out of four women will be the victim of at least one violent crime during their lifetime. **HB 2159** would provide for a fair law - one that calls for background checks, training, and fees that would provide even as much as \$1M to the administering agency, the Kansas Bureau of Investigation. (Attachment 5)

Herb Taylor, a proponent to **HB 2159** testified until recently he was employed as the General Manager of a graphic arts business located in a light industrial park in Kansas City, Kansas. There have been numerous instances of criminal activity in the complex attributed to "gangs" that operate in the area. Mr. Taylor had to respond any time of day or night when the alarm was activated. When responding to these middle of the night situations, he took some type of personal protection. The drive was through three or four different municipalities. The state of Kansas currently allows each municipality to enact their own local firearms laws and does not allow "law abiding" citizens the right to carry a firearm for personal protection. This creates a situation where no one individual can possibly know or understand the myriad of local laws or even be aware of potential violations. In an attempt to not violate the law, firearms must be unloaded, out of reach, in a broken down state. It does not give much comfort to arrive on a potential crime scene and at that moment be unprepared for what might await you. (Attachment 6)

Judy Morrison, Shawnee, Kansas, testified in support of **HB 2159** stating few women can defend themselves against a man. Criminals prey on the weak. Criminals will always have access to guns. As much as law enforcement officers want to try to protect the public, statistics have proven it to be impossible. Unfortunately, they cannot fight crime alone. Kansas is one of only seven states without a law allowing honest citizens to carry firearms for self-defense and ask for support in allowing **HB 2159** to become law. (Attachment 7)

Linda Lee Stewart, Lenexa, Kansas, testified as a proponent to **HB 2159** guaranteeing law-abiding citizens the right to carry a firearm for personal protection against violent criminal attack while outside the home. Ms. Stewart testified she was home alone and asleep after working the graveyard shift when the phone alarm woke her. The phone was taken off the hook and a stranger entered her bedroom. After the incident she was able to dial 911. The police officer who responded stated she was lucky as a criminal had been going through the neighborhood burglarizing and an elderly couple had been tied up just a couple blocks away. The point is female or male, in home or out of your home, everyone is vulnerable to criminal activity. It is requested the House of Representatives move forward with legislation in favor of a Right to Carry law which would permit the law abiding citizen to obtain a permit that would include a complete background check, safety training, and education regarding the laws which accompany this choice. It is felt the current law prohibiting citizens from the right to carry a concealed firearm is punishing the law abiding citizen for the actions of the criminal. (Attachment 8)

Joseph T. Gimar, Kansas State Lodge, Fraternal Order of Police, stated they continue to support this legislation with the belief that the citizens of Kansas would use it responsibly. (Attachment 9)

Don Moler, General Counsel, League of Kansas Municipalities, appeared not as a proponent or an opponent, but commented the League opposes any state preemption of local laws regulating the use of concealed weapons in our state. League records indicate that cities in Kansas have had the power to regulate all types of firearms within their communities since at least 1863. The League has a long standing policy position against

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S  
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any state preemption of the ability of local authorities to determine matters locally. Specifically in the 1996-1997 statement of Municipal Policy, which was adopted by the membership of the League of Kansas Municipalities at its annual convention in October 1996, Section G-7 entitled Firearms Regulation states as follows: "We oppose any legislative efforts to restrict or preempt local home rule authority to regulate firearms, including the possession or discharge of firearms in public places within cities. As a matter of public safety, we also oppose any modification of state statute which would allow ordinary citizens to carry concealed weapons in public."

Despite this policy statement in general opposition to allowing concealed carry, the League is not specifically opposing **HB 2159**. The League is concerned about the preemption aspect of the legislation found New Section 15 as it strikes at the very heart of Constitutional Home Rule authority of cities in Kansas and is a complete departure from the historical nature of firearm control in Kansas. (Attachment 10)

The following testimony was distributed:

Proponents: Diana Chambers (Attachment 11), Becky Hinkle (Attachment 12), James J. Fotis, Executive Director, The Law Enforcement Alliance of America, (Attachment 13), Roger T. LaRue, (Attachment 14), Carolyn Wasson, (Attachment 15), Cindy Combs (Attachment 16), Rockwell Greene, (Attachment 17), and National Riflemans Association (Attachment 18)

Opponents: Chambers of Commerce (Attachment 19), Carol Marinovich (Attachment 20), D. Eugene Lichty, Church of the Brethren, McPherson, Kansas (Attachment 21), William E. Stewart, Jr., PhD, PE, Olathe, Kansas (Attachment 22), Douglas S. Murphy, Chief of Police, Kinsley, Kansas (Attachment 23), Carolyn Weinhold (Attachment 24), James W. Kaup, Kansas County & District Attorneys Association (Attachment 25), and Gary M. Upham, American Family Insurance, Overland Park, Kansas (Attachment 26).

Comments: Bruce Dimmitt, Overland Park, Kansas (Attachment 27), Terri Roberts, JD, RN, Executive Director, Kansas State Nurses Association, (Attachment 28), and Terry Leatherman, Executive Director, Kansas Industrial Council, Kansas Chamber of Commerce and Industry (Attachment 29)

Other attachments: Attorney General Opinion No. 97-17 (Attachment 30)

The meeting adjourned at 3:10 p.m.

The next meeting is scheduled for February 17, 1997.

# FEDERAL & STATE AFFAIRS COMMITTEE

DATE: 2-11-97

NAME	REPRESENTING
HERB TAYLOR	Kansas Sportsmen's Alliance
Minda Ann Stewart	SWARM + as a citizen
Eric Haslin	SELF
Jim Wadley	as a citizen
Catherine Wadley	as a citizen
Suzanne R. Bateman	SWARM & citizen
John R. Ely	Self
Jan Ely	SWARM & as a citizen
J. J. McCurt	K.P.O.A.
LANE RYNO	K.P.O.A.
Tom Hayselden (over)	Ks. Assn. Chiefs of Police
Gene Amos	Shawnee Area Cop <sup>s</sup>
Loren C. Anderson	Kansas Sheriff's Assoc.
Don Mehl	SELF
JOE GIMAR	KS. STATE LODGE FRATERNAL
STEVE KEADLER	KS. STATE LODGE, FOP
MEGGAN GRIGGS	KS STATE LODGE, FOP
James A. Staser	Kansas Ecumenical Ministers
Richard A. Minder	Kansas Ecumenical Ministers
Carl Sears	" " "
Becky Swanwick	League of KS Municipalities
Don Moler	" " " "
Jamie Taylor	SWARM
BOB HODGSON	Ks SPTSMAN'S ALLIANCE
James Morrison	Citizen/self
Judy Morrison	SWARM
Mike Darby	Wyandotte County Sheriff
Steve Lee	Ks Assoc of Chiefs of Police

CHIEFS OF POLICE





# Kansas Bureau of Investigation

Larry Welch  
Director

Carla J. Stovall  
Attorney General

February 7, 1997

Gloria Timmer, Director  
Division of Budget  
Capitol Building  
300 SW 10th, Room 152-E  
Topeka, Kansas 66612  
Fax #913-296-0231

RE: Fiscal Note for House Bill 2159

Attn: Jeff Bridges

## I. ANALYSIS OF PROPOSED LEGISLATION

HB 2159 provides for the implementation of a licensure process to issue permits to carry concealed weapons. The bill allows the issuance of such license for four year periods of time and the renewal thereafter. The bill sets forth certain requirements which must be satisfied at the time of the application.

An applicant for a concealed carry permit will submit the application and fee to the sheriff in the county in which they reside. The sheriff will then conduct the record check, take fingerprints and send all documentation to the KBI along with \$100. The sheriff retains \$25.00.

The Kansas Bureau of Investigation (KBI) will administer the act and be responsible for processing, investigating, issuing and denying the applications. The renewal fee cannot exceed \$100.

The bill also requires the applicant to complete a firearms course. The KBI would be required to develop a firearms training course for applicants.

Implementing this program would necessitate delaying the effective date until July 1, 1998. The KBI will be requesting state general fund money to allow for start-up costs.

## II. HOW HOUSE BILL 2159 IMPACTS KBI OPERATIONS

HB 2159 will impact the following areas at the KBI:

1. The legal division would have the responsibility for administration of the concealed firearms permits. Two positions needed are: an Attorney I to review the applications for compliance with the statute, conduct administrative hearings and develop rules and regulations; and a Secretary III to assist the attorney, process applications and receive licensing fees.

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2. The records section at the KBI would be utilized to conduct record checks. For the estimated number of record checks, the records division would require additional staff of eight persons. Two office specialists are needed to process the fingerprint cards. Additionally, six office assistants are necessary to compile the files.
3. The investigators are needed to conduct minimal investigations into the areas covering mental illness treatment and drug and alcohol abuse as well as military and alien status.

### III. EXPENDITURES REQUIRED TO IMPLEMENT HOUSE BILL 2159

If HB 2159 were implemented, new positions would be necessary to support the program. These positions may not be sufficient to meet demand. It may be necessary to hire temporary employees for the first year. These positions are as follows:

<u>Position</u>	<u>Number of Positions</u>	<u>Range</u>	<u>Salary (with benefits)</u>
Attorney I	1	28	\$42,357.75
Special Investigator II	2	24	34,969.64 (69,939.28)
Secretary III	1	17	26,271.27
Office Specialist (Records)	2	18	26,873.22
Office Assistant III (6 Records)	6	13	<u>21,719.87</u>
<b>Total Positions</b>	<b>12</b>		<b>\$187,161.39</b>

The first year cost for printing applications, statutes and licenses for 50,000 requests is estimated at \$200,000. The cost for postage is estimated at \$100,000. The KBI has no office space in which to house the staff to administer the act. Therefore, office space in Topeka must be used.

The concealed carry bill is funded by a license fee not exceeding \$125. This fund is to be utilized for implementing and administering the act.

### IV. ASSUMPTIONS USED TO DEVELOP COST ESTIMATE

In part, the assumptions relied upon to develop the cost estimate is based on the number of phone calls the KBI receives regarding concealed carry permits. Additionally, the KBI contacted the Texas Department of Public Safety and the Oklahoma Bureau of Investigation. Texas underestimated by at least half, the number of applications returned. Both states indicated they were overwhelmed by the number of applications received. The following statistics were used to estimate the number of applications sent and received for Kansas.

<u>State</u>	<u>1st Year Time Frame</u>	<u>Applications Mailed</u>	<u>Applications Returned</u>
Oklahoma	01/01/96-12/31/96	65,000	17,000
Texas	09/01/95-09/01/96	308,000	118,000
Florida	10/01/87-10/01/88	121,286	36,752

Revenue for the first year is estimated to be:

$$20,000 \text{ applicants} \times \$100 = \$2,000,000$$

The KBI cannot absorb in its current budget the initial and continuing cost associated with the implementation of HB 2159. Processing applications for licensure is time consuming and detailed work. All applications must be reviewed for approval. Administrative hearings would be necessary for those persons who appeal denial, suspension or revocation of the permit. It is difficult to estimate the number of applications processed the first year. However, in calendar year 1995 the FBI received 28,629 requests for records for the purchase of handguns under the Brady Bill in Kansas. This number does not reflect the number of persons who already own handguns and desire to carry them concealed. It also does not cover those sales of handguns not subject to Brady Bill record checks. A conservative estimate of the number of people applying for concealed carry is 20,000 for the first year. The number of requests for applicant packets is estimated at 50,000.

The KBI is assuming that instead of the sheriff conducting record checks (by name), the KBI would conduct the record checks on the state and federal level, based upon fingerprints.

## V. STAFFING

### SALARY PROJECTIONS (with benefits)

<u>Position</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 2000</u>
Attorney I	42,357.75	44,113.40	45,132.30
Special Investigator II (2)	69,939.28	72,821.84	74,525.10
Secretary III	26,271.27	27,408.17	28,024.25
Office Specialist (2) (Records)	26,873.22 (53,746.44)	28,022.76 (56,045.52)	28,638.84 (57,277.68)
Office Assistant III (6) (Records)	21,719.87 (130,319.22)	22,915.00 (137,490.00)	23,165.21 (138,991.26)
<b>Total</b>	<b>\$ 322,633.96</b>	<b>337,878.93</b>	<b>343,950.59</b>

*Salary increases are based on 2.5% increase per year.*



VI. LONG RANGE FISCAL EFFECT

EQUIPMENT/SUPPLIES

	<u>Individual</u>	<u>Total</u>
Book shelf (3)	201.00	603.00
4 drawer cabinet (10)	183.20	1,832.00
Desk (2)	510.00	1,020.00
Work table (4)	420.00	1,680.00
Chair (2)	327.00	654.00
Security alarms	1,464.00	1,464.00
Lap top computer	3,328.00	3,328.00
Printer	361.00	361.00
PC system (Secretary)	2,595.00	2,595.00
Printer/software (1)	1,800.00	1,800.00
Calculators (2)	130.00	260.00
Typewriter (Secretary)	495.00	495.00
Legal manuals	500.00	500.00
Misc. supplies	1,000.00	1,000.00
Fax	1,108.00	1,108.00
Phone system	1,000.00	<u>1,000.00</u>
<b>Total</b>		<b>\$19,700.00</b>

ANNUAL EXPENSE

	<u>Monthly</u>	<u>Annually</u>
Copier	375.00	4,500.00
Office space 500 sq. ft. x \$12 ft =		6,000.00
Utilities	500.00	6,000.00
Phone Service	220.00	<u>2,640.00</u>
<b>Total</b>		<b>\$19,140.00</b>

See Attachment A

When an applicant is entitled to an administrative hearing, a hearing officer and court reporter must be utilized. It is estimated that with travel, per diem and fees, each hearing will cost \$1,000. The number of hearings a year is estimated to be 20.

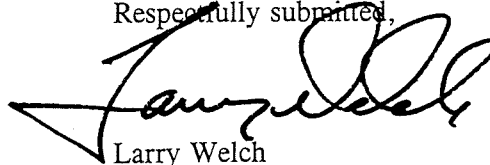
Postage and printing includes the cost of mailing and printing the initial request form, the application, the duplicate license form, the modified application form, the renewal form and the instructor application form. Postage and printing are based on costs associated with administering the Private Detective Licensing Act.

OOE is the annual cost to provide travel, per diem, training, equipment and a state vehicle. For investigators this amount is \$7,000. The cost to lease a state vehicle for FY 99 is \$240 per month, which is included in the amounts above.

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If the KBI relocates to a larger building, the cost for office space will be eliminated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Larry Welch". The signature is written in a cursive style with a large, looped initial "L".

Larry Welch  
Director

LW:ld  
CC: Paul West

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ATTACHMENT A

EXPENDITURES

FY	No. Requests	App. Postage	Printing	Admin. Hearings	OOE Investigators	Equipment	Office Lease & Utilities	FBI Fee Record Check	Salaries	Total
1998	50,000	\$100,000	\$200,000	\$ -0-	\$ 7,000	\$19,700	\$ 9,570	\$240,000	\$161,316.98	\$ 737,586.98
1999*	50,000	100,000	200,000	20,000	14,000	2,000	19,140	480,000	322,633.96	1,157,773.96
2000	50,000	100,000	200,000	20,000	14,000	2,000	19,140	480,000	337,878.93	1,173,018.93
2001	50,000	100,000	200,000	20,000	14,000	2,000	19,140	480,000	343,950.54	1,179,090.54

\* with an implementation date of July 1, 1998, based upon 20,000 applications returned.

FY 1998 amounts are for approximately a half year of operation.

PROJECTED REVENUE

FY	No. Applications	Projected Revenue
1999	20,000	\$ 2,000,000
2000	15,000	1,500,000
2001	15,000	1,500,000

Note: It is difficult to develop a projected trend in application submissions. Florida initially experienced a decrease in submissions, then an overwhelming increase.

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	<u>Texas</u>	<u>Oklahoma</u>	<u>Iowa</u>	<u>Florida</u>
Year Implemented	Eff. 9/1/95 First license issued 1/1/96	Eff. 1/1/96	Eff. 1979	Eff. 10/1/87
Year 1 Applications Received	101,254	16,967	Unknown	36,752
Year 1 Applications Approved	92,935	15,081	Unknown	33,451
Year 2 Applications Received	23,826	30 a day (est. 7,800 per year)	Unknown	17,884
Year 2 Applications Approved	27,257	Year not complete	Unknown	17,884
Extent of Background Check	Extensive investigation; Parallels SB 21	Criminal history records checks by fingerprint submissions through FBI; local inquiries by sheriff	Record check & local inquiries by sheriff	Criminal history record check
Projected Year 1	76,632	24,000	22,000	130,000
Projected Year 2	76,747	No projection	Unknown	Not available
Primary Agency Responsible	Texas Dept. Public Safety	Oklahoma State Bureau of Investigation	99 Sheriffs	Florida Department of State
Number of New Employees	39 (does not include Texas Highway Patrol or records*)	20 1/2 time A.A.G.	4 support staff at Iowa DPS	60
Estimated Cost	Unknown	\$1.4 million +	NA	\$3.4 million
Fee Charged	\$140 w/o special conditions (4 years)**	\$100 to OSBI \$25 to sheriff (4 years)	\$10 per new permit of which \$2 goes to DPS \$5 per renewal of which \$1 goes to DPS	\$117 (3 years)
Does Fee Cover all Costs?	Unknown	Yes	Yes	Yes

+ Figure includes salaries, FBI costs, rent, printing, postage, communication and attorney costs

\* Pay for 2 hours time per investigation and mileage for Texas Highway Patrol

\*\* Special conditions are reduced fees for indigency, senior citizen, retired police officer, judicial officer or felony prosecutor.

TESTIMONY OF ERIC HASKIN ON H.B. 2159

FEDERAL AND STATE AFFAIRS COMMITTEE

I appreciate the opportunity to address this committee today. My name is Eric Haskin. I am a lifelong resident of the State of Kansas and a trooper with the Kansas Highway Patrol; I have served in this capacity for 19 years. My entire career has been devoted to direct law enforcement duties. I have never sought administrative positions and fully intend to continue my career as a street officer.

About a year ago I became interested in the issue of legally licensing civilians to carry concealed weapons. I had heard much about these laws, mainly through magazine and newspaper articles. I wanted to find out for myself if this type of legislation posed a threat to law enforcement officers. I was also curious to find out what effect these laws had on crime rates.

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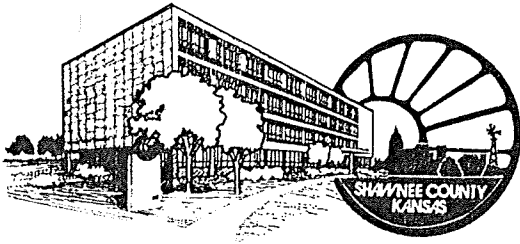
My quest for information first led me to Mr. John Russi. John is a retired member of the Florida Highway Patrol and is currently serving as the Director of Licensing for the Florida Department of State. Mr. Russi's department oversees the issuance of concealed carry permits for the State of Florida. Florida records show that there have been over 380,000 permits issued since the inception of their concealed carry law in 1987. As of January 1997, only 72 licenses have been revoked for firearms related crimes. This is a revocation rate of .019%. Laws passed in other states have had very similar results. It appears to me that concealed carry permit holders are probably much more law abiding than the population at large. As to the issue of officer safety, Mr. Russi informed me that there had not been a single case of a permit holder assaulting a police officer. In fact, I cannot find a single instance anywhere in the United States where a legally licensed permit holder has used his weapon against a police officer.

A recent University of Chicago study answered my other question about the efficacy of these laws in the fight against violent crime. This comprehensive research showed conclusively that violent crimes against people were reduced after concealed carry laws were enacted.

This debate should not be about political or philosophical differences between law enforcement officials or between legislators. It is very simply an issue of citizen safety. There is an enormous amount of empirical data that we can examine to determine exactly how these laws will work. We do not have to rely on theory or conjecture. We have heard from opponents of this legislation that "More guns equals more crime"; "It will be like the wild west again", or "There will be shootouts on every corner or at every minor traffic accident". Thirty-one states now have right to carry laws. There are 127,000,000 people who live in states with right to carry laws. These frightening prophecies have not been fulfilled elsewhere; why would it be different in Kansas?

In the area where I work in western Kansas, there are usually one to three troopers on duty to cover a geographic area larger than the states of Delaware, Connecticut or Rhode Island. It is obvious that we as police officers cannot provide protection for everyone. House Bill 2159 would allow law abiding Kansas citizens a much needed option to provide for their own personal security.





Shawnee County  
Sheriff's Department  
Sheriff Dave Meneley

200 EAST 7TH STREET  
TOPEKA, KANSAS 66603-3932  
COURTHOUSE ROOM B-16 913-233-8200 EXT. 4044

HOUSE BILL NO. 2159

Testimony by Shawnee County Sheriff Dave Meneley

February 10, 1997

Chairman and Members of the Committee:

I am Shawnee County Sheriff, Dave Meneley, and have come today in support of this bill. This is my third appearance in front of this committee and although some of my testimony has changed, my opinion has not.

I have come before you today not to speak on the Second Amendment nor on citizens rights, although they are important, I have come to speak on crime in our community.

As elected officials we have a responsibility to those we represent. My portion of that responsibility is to enforce the laws you create. The problem we both have is the alarming escalation of crime and how to control it. Obviously, what we have done to this point has not stopped, or slowed down what is happening in our communities. We have enacted laws, which are good laws, but we do not have enough funding to hire enough officers to apprehend all of the law breakers. Once we make an apprehension the criminals are released because they are allowed to sign themselves, through faulty bond procedures, or we do not have enough funding to house or even detain them until their court date. The criminals who are convicted often times are paroled because we don't have adequate housing or funding to hold them. Our constituency is fed up with our inability to slow down the criminal element. Our system is broken and we must start providing some solutions.

I have read and heard just about every opposition to a concealed carry law and I have talked to law enforcement officers all over the United States. I am convinced this law is one solution to deterring crime.

I am a career law enforcement officer serving the citizens of our community for 27 years. Today, as in the past 27 years, criminals as well as many other citizens carry concealed weapons. Passage or denial of this bill will not change that. All law enforcement officers across the state are aware of this fact. Previous testimony in front of this body indicates citizens have been shot and/or killed by concealed

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weapons. Passage of this bill will not decrease those numbers. These people were killed by people breaking the law.

As a police officer, I have nothing to fear from a law abiding citizen if he or she is carrying a weapon legally, but the criminal who is about to attack him or her should.

For years the criminal element has held the majority of our citizens hostage through fear and the inability of law abiding citizens to protect themselves. Why should 5% of our population (the criminal element) rule the majority (the law abiding citizens). I believe they have a right to protect themselves, their families, and their property.

Public safety and the escalating crime rate are my number one concerns. Violent crime in my county has not decreased with a passage of the Brady Bill or banning of the assault weapon. Crime is increasing and we need to do something about it, concealed carry will help. My jurisdiction encompasses 540 square miles with many remote locations, which at times can be dangerous for my officers as well as the citizens they protect. Will this bill act as a deterrent to the violent crimes we witness today? I believe it will.

Statistics prove a decline in violent crimes against persons after concealed weapon laws have been enacted. These statistics come from 31 states, not just one state. A criminal may think twice about robbing, raping, or accosting a citizen if they think that person can protect themselves.

Many people and organizations who oppose this bill talk about all of the things that might happen. Laws should not be written for the exceptions, because there will always be a few, but should be written for the rule. Criminals interviewed in prison about the concealed carry law do not like it, doesn't that tell you something.

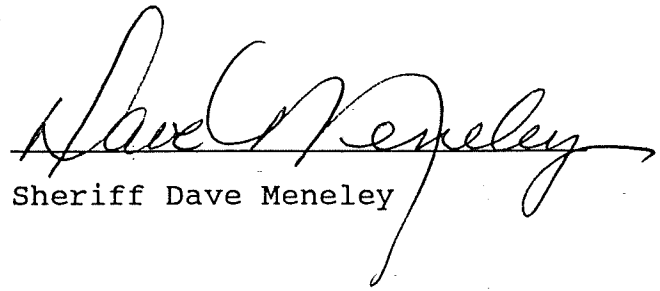
Some jurisdictions are currently providing services and training needed for licensing private security officers who carry guns. The public is quite comfortable with these people, these citizens receive no law enforcement training. Yet often times background checks are not done or are incomplete and I feel the security requirements of this bill are adequate and the training requirements adopted by the K.B.I. should be comparable to that of law enforcement so that officers are comfortable that the person carrying the weapon is competent in the law and use of the weapon.

Not all citizens will want to carry a gun when it is explained that training and fees are required. I do feel educational programs to both the public and law enforcement is a necessity. We need to stress that carrying a weapon may create a danger to the bearer, and carry's a great deal of responsibility.

I believe the law enforcement fund, established through this bill, affords local agencies the ability to acquire much needed equipment which could be used for officer safety or criminal apprehension.

My only concern is that the training and licensing fees be small enough so they do not discriminate against the poor or less fortunate in our community, the very people who may need the protection the most.

Thank you for allowing me to once again speak on this issue.



Sheriff Dave Meneley

DM/bmt

Jan Exby  
8218 W. 97<sup>th</sup> Terr.  
Overland Park, KS 66212

Honorable members of the Committee, I am here today to express my support for Bill 2159, The Personal and Family Protection Act. The right to defend your life and safety and that of your family is a basic human, God-given right. This bill would permit law-abiding citizens, especially women, an option for effective self-defense. It would serve as a deterrent to crime and make our citizens less attractive to criminals. It should be passed.

I speak today not only for myself but on behalf of a national organization called Safety For Women And Responsible Motherhood. We have organized in the Kansas City area and surrounding communities. We believe that it's essential for women to have the options and the means to protect themselves and their families. I hear from women in cities and I hear from them in the rural areas. They do not feel safe and they want all options available to defend themselves.

I live in a nice city with neighboring communities that have good, affordable housing and excellent schools. We also have violent crime. One evening in March of 1995, I became the victim of a violent crime. I was with a young lady who also became a victim. As we returned to her apartment which was a block and a half from the police station, a man violently forced his way into the apartment; he barred the door and threatened to shoot us. It was dark, but from the outside window light we could tell that he was disguised from head to foot. Pepper spray would have been useless. We were made to lie face down on the floor while he demanded our money. He demanded that we take off our clothes - we refused, and he then forced us into the bedroom where he stripped us and raped us. When we tried to talk to him, he responded by choking and threatening us. It was disgusting and I will never forget the sound of my friend's voice as she called out to me for help and I had no way to protect her.

Even when a woman lives through rape, she faces death because of the threat of AIDS. Lives are forever changed, and certain fears and the reality of no guarantee that something else will never happen, are forever with you. A woman named Barbara told me how she has lived this reality, having been abducted and raped by three men, and then exactly one year later, was raped again and threatened with murder by two other men. She wants the ability to defend herself.

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I was attacked outside of my home, where most crime occurs. If I had been in my home, I would have been justified in defending myself with a firearm. Why am I less justified and less important outside of my home? If I am able to openly carry a firearm for protection, why am I not trusted to carry it out of sight? Our legislators and our laws should be protecting the right of women to defend themselves against rape, robbery and murder. How many unspeakable crimes must we suffer before we are heard?

Three out of four women will be the victim of at least one violent crime during their lifetime. Some women think it will never happen to them - they should think again. Women are concerned because no place is safe anymore.

The women I have talked with come from a variety of backgrounds and occupations, ranging from full-time homemakers and wives to banking and finance professionals, contract negotiators, retired school teachers, secretaries, sales reps, etc. Some are single moms who carry the heavy burden of knowing that they alone are responsible for the safety of themselves and their families. Some have been victims, like myself, and none want to be victims in the future.

They don't feel safe taking walks or using jogging trails like they used to. Having to walk in a parking lot at night, whether it's the grocery store or at work, is a frightening experience. A woman in southern Kansas called me and told me how she and her farming neighbors don't feel safe walking down their country roads with their children any more. Driving in broad daylight on city streets and highways in my area has meant robbery, murder, and even rape on the side of the road as cars drove by. My local paper recently reported that there are between 500-600 hard core gang members in my county. That's a serious problem with significant current and future safety concerns for our community.

House Bill 2159 is similar to the law in Florida. Florida's Secretary of State has written:

*"If you look closely at the statistics, and consider the fact that Florida's Concealed Weapon or Firearm License Program has been in effect for eight years with no changes initiated by any law enforcement group, you will agree that the program is indeed a success and a model for other states."*

Florida Law Enforcement Commissioner James T. Moore reported in 1995 in a memo to the governor,

*"From a law enforcement perspective, the licensing process has not resulted in problems in the community from people arming themselves with concealed weapons.."*

House Bill 2159 would provide for a fair law - one that calls for background checks, training, and fees that would provide even as much as \$1MM to the administering agency, the Kansas Bureau of Investigation.

If we value women, then we must acknowledge that giving them the ability to protect their lives is most precious. It's more important than where we worship, our freedom to meet together, and to speak our minds. The right to defend ourselves is God-given, and not meant to be dependent upon the crime rate or the political leanings of the times.

I urge you to support this bill which will provide the law-abiding citizens of Kansas, especially women, the ability for effective self-defense outside their homes.

Thank you.

February 5, 1997

## TESTIMONY OF HERB TAYLOR

Chairman Boston and Honorable Members of The House Federal and State Affairs Committee, thank you for allowing me to briefly address you this afternoon on an issue of importance to my family and myself. The subject is HB #2159, the "Personal and Family Protection" Act.

My name is Herb Taylor and I am a lifelong resident of Kansas. For the past 28 years my wife and I have resided in Shawnee, Kansas. Until recently, I was employed as the General Manager of a graphic arts business located in a light industrial park in Kansas City, Kansas. There have been numerous instances of criminal activity in the complex attributed to "gangs" that operate in the area.

When an alarm at the business was activated, I got the first phone call from the alarm company after police notification. The calls came at dinner time on holidays as well as 3:00 o'clock in the morning with an apparent break-in in progress. With the high degree of criminal activity in the area, a personal response to the situation was called for and I was never sure of what would be encountered upon my arrival. I was met by law enforcement personnel in only two of the more than twenty-five times I responded to an alarm call.

When responding to these middle of the night situations, I took some type of personal protection along. My drive to the plant took me through three or four different municipalities. The State of Kansas currently allows each Municipality to enact their own local firearms' laws and does not allow "law abiding" citizens the right to carry a firearm for personal protection. This creates a situation where no one individual can possibly know or understand the myriad of local laws or even be aware of potential violations. In an attempt to not violate the law; I carried my firearm in an unloaded, out of reach, broken down state. It does not give you much comfort to arrive on a potential crime scene and at that moment to be unprepared for what might await you.

By virtue of my job, I often worked late at night. It is an uncomfortable feeling to walk to your car after dark and be unable to rely on some type of "personal self protection".

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On a day to day basis, law enforcement does a very fine job of carrying out their duties. However, they rarely are in a position to prevent crimes. For the most part our law enforcement personnel are put in a position of reaction only to a crime. Because the police are not required to protect us, (this has been upheld by the Supreme Court); we, the "law-abiding" citizens are requesting the right and ability to protect ourselves and our families.

Criminals have absolutely no compunction at carrying "concealed firearms" and using them in the pursuit of their illegal activities. Criminals will however, be much more reluctant to prey on the "law-abiding" citizen if they feel that the potential victim might be armed and able to protect themselves. This is where the "concealed firearm" presents a cause of concern for the criminal.

When a TV "news magazine" program visited juvenile detention facilities in South Florida to find out why violent juvenile gangs targeted Foreign tourists for attack, the incarcerated juveniles said "they knew Foreign tourists were not carrying personal self protection". These juvenile predators admitted that since Florida allows its law-abiding citizens the right to self protection, they therefore avoid the residents fearing they may be armed. What better case for the "Right to Self Protection" laws than the admissions of juvenile gangs -- the most violent segment of the criminal population?

With passage of this bill there are safeguards against Criminal licensing. Does anyone think for a minute that any Criminal would try to get a permit; what with having to submit to photo ID, finger printing and a background check? Additionally there are specific training requirements to be met to get a permit for self protection.

In closing, thank you for listening to the testimony of concerned Kansas citizens. We look forward to a positive outcome from you, the Legislators we have elected, in our pursuit of the "Right to Personal and Family Protection" in Kansas in 1997 and thereafter. As I stand here today, Kansas is one of only seven States in this Country that does not allow it's law-abiding citizens the "Right to Self Protection"! Please support and pass HB #2159 and establish a "Non-Discretionary, Self Protection" law for all law-abiding Kansans! Thank you again for your time.



Herb Taylor  
Shawnee, Kansas  
913-268-6198



TESTIMONY OF JUDY MORRISON ON H.B. 2159  
FEDERAL AND STATE AFFAIRS COMMITTEE  
KANSAS HOUSE OF REPRESENTATIVES  
FEBRUARY 10, 1997.

Mr. Chairman and Committee members, thank you for hearing my testimony today. My name is Judy Morrison and I live in Shawnee, Kansas. In 1984 my daughter Shanna was diagnosed with cancer. Thus, began four years of ongoing treatment. Shanna was treated several hundred miles from home.

Originally her treatment involved monthly visits to the hospital. As her disease became more complex and side effects worsened, we found our stays more frequent, and often longer than anticipated.

Eventually, finances made it impossible to fly for each visit. When Shanna felt she could make the trip by car we did so. Many times, we arrived home late at night or early morning. It was often necessary to stop beside the highway when she became ill from chemotherapy.

On one occasion a tire blew out. We had a frightening experience. It left my daughter in tears and suggesting we should never be on the road without a way to defend ourselves. I felt only a firearm would be effective. However, I explained that would not be feasible under the law. Shanna did not think that was a good law, and frankly neither did I. Nor do I today.

I often think of other children and mothers in vulnerable situations, mothers that bear the full responsibility for the safety of their children.

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Physically, few women can defend themselves against a man. Criminals prey on the weak. Criminals will always have access to guns. As much as law enforcement officers want and try to protect us, statistics have proven it to be impossible. Unfortunately, they cannot fight crime alone.

Attached you will find two articles regarding violent crimes that have taken place in Shawnee Mission within three months. One, a car jacking, June 13 at 6:15 in the evening on a busy highway. Debbie (co-worker of my husband) looked on as the Father of her two sons was murdered before her eyes. The second incident took place just three months later. A lady was raped on the ground beside her car on I-35 shortly before noon. Eight lanes of traffic were whizzing by and an overpass was nearby. These are but two examples of my worst nightmares as we traveled.

February 25, 1988 Shanna passed away but I do still have a twenty eight year old daughter. Please allow women like my daughter and myself the right to protect ourselves. More importantly, allow us the right to protect our precious children.

Kansas is one of only seven states without a law allowing honest citizens to carry firearms for self-defense. I am asking you to trust law-abiding Kansans.

Judy Morrison  
Shawnee, Ks.  
913-631-4817

# THE OVERLAND PARK BLUE VALLEY EDITION

# SUN TM

Delivered Every Wednesday and Friday Morning



Manard

## First suspect charged in OP carjacking death; second person expected to be charged

By Phil LaCerte  
Sun Staff Writer

John M. Manard was charged Tuesday in Johnson County District Court with felony murder and aggravated robbery.

Manard is a suspect in the June 13 slaying of Donald England during an apparent carjacking. District Attorney Paul Morrison said a team of Overland Park detectives was continuing an investigation, and that

charges against a second individual could be filed.

"I'm confident we'll get a makable case against a second suspect," Morrison said.

Morrison declined to identify a second suspect, but detectives on a since-disbanded metro squad said during an initial investigation that they were seeking Michael P. Yardley in connection with England's murder. Yardley was arrested Thursday. See MURDER, Page 2

## MURDER

From Page 1

night in Gardner, and appeared Monday in Johnson County District Court on charges unrelated to the carjacking.

Manard was with Yardley when Yardley was arrested, but he managed to elude police. He was arrested Saturday night at a Gardner apartment complex

after a nearly three-hour stand-off with police. He was finally coaxed from the apartment by his mother.

Manard was arrested on existing warrants unrelated to England's slaying.

England was alone in a car parked in front of a hair salon at 7800 Shawnee Mission Parkway on the evening of June 13 when

one suspect approached the driver's side door and another approached the passenger side door. England was shot as he exited the vehicle.

The suspects fled the scene in England's 1990 Chrysler Le Baron convertible, which later was found abandoned and undamaged behind Tomahawk Elementary School.

17-3

# Eyewitness was shocked by midday assault on I-35

By Steve Baska  
Sun Staff Writer

An eyewitness who stopped at the scene of the I-35 sexual assault on Monday said other drivers who also stopped to help were in shock at the brazen attack.

Dave Gernhardt, Olathe, pulled up moments after the suspect had fled.

"The women there, especially, said it was unbelievable that this happened in the middle of the day on a highway," Gernhardt said.

Gernhardt was driving northbound on I-35 about 11:50 a.m. when he passed the assault site in the southbound lane just north of the I-435 and I-35 interchange. At that moment, the suspect was driving away in his van, the female victim was standing in the highway waving her arms for help and about four cars had already pulled over to help her. Gernhardt, 43, quickly turned his truck around at 95th Street and went back to the site.

"When I pulled up at the scene, the woman was sitting in

**Police seek suspect.....Page 3A**

her car sobbing and people were helping her," he said. "She had a cut on her brow and her nose were ripped at the knees from the struggle."

Other drivers had arrived first and yelled at the attacker, scaring him away. Police, alerted by drivers with cellular phones, arrived moments before Gernhardt, who learned the story from other witnesses at the scene.

Gernhardt said he saw the suspect's van driving away southbound, and he believed the van to be a copper color, instead of red, as police are reporting.

"I've been looking for that van ever since," Gernhardt said. "I believe in capital punishment, and this guy deserves it."

Gernhardt, who is a tow truck driver for Lightning Tow in Olathe, said he has been to the sites of many accidents, but never anything like a sexual assault beside a busy highway.

"I was shocked too," he said. "I hope they find this guy."

Delivered Every Wednesday and Friday Morning

9-13-96

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THE OVERLAND PARK BLUE VALLEY EDITION

STON

7-4

# Police: I-35 suspect stalked other women

9-18-96

Sun  
Newspaper

## RAPE

From Page 1

face and took her purse."

The woman said she believed the man drove a brown van. The same pattern of motioning to a woman to pull over was used in the Lenexa assault. Allred allegedly drove a red van in that case. Witnesses at the Lenexa scene gave a partial license tag number that matched the tag on Allred's van, Lewis-Jones said.

At least two other female callers to the TIPS hotline reported seeing a man resembling Allred in a brownish or reddish van following them on local roads, Lewis-Jones said.

"We are continuing to gather information about similar incidents to attempt to show a predisposition on his part," Lewis-Jones said.

Allred, a construction worker who has two previous convictions for sex crimes, was released from prison in March after serving 10 years for the rape of a 16-year-old girl in 1985.

Police are gathering physical evidence from the Lenexa attack for a trial, Lewis-Jones said. The Johnson County Crime Lab is trying to lift fingerprints from the victim's car and the lab is studying skin and blood samples taken from underneath the victim's fingernails. The victim scratched the assailant during the struggle, Lewis-Jones said.

If convicted, Allred could receive 122 years in prison because new sentencing guidelines passed by the Kansas Legislature last spring increased sentences for repeat sexual offenders.

### *Shawnee woman tells police same man enticed her to pull off of road*

By Steve Baska

Sun Staff Writer

The man charged with sexually assaulting a woman on I-35 in Lenexa is believed to have assaulted another woman on a local highway and followed at least two other women, all within the last four weeks, said a Lenexa police detective.



Allred

James Patrick Allred, 32, Kansas City, Kan., remains in the Johnson County jail charged

with rape after an attack last week on a woman on I-35 at 95th Street. He faces another court appearance at 10:30 a.m. Thursday.

Lenexa police said Monday that media coverage of the case spurred a 29-year-old Shawnee woman to call and identify Allred as the man who stopped her at I-635 and Metropolitan Road in Kansas City, Kan., when he allegedly flashed the lights in a van he was driving to get the woman to pull over.

"She thought she had car trouble, so she pulled over," said Lenexa Det. David Lewis-Jones. "When she got out of her car, the suspect hit her in the

See RAPE, Page 2

The Sun Newspapers September 27, 1996 — Page 5A

## More women say suspect in I-35 rape stalked them

Six women have now identified the man charged with sexually assaulting a woman on I-35 as being the man who tried to make them pull over their cars on local highways, Lenexa police say.

James Patrick Allred, 32, Kansas City, Kan., remains in the Johnson County jail and is charged with rape in the 11:50 a.m. assault on an Overland Park woman on I-35 just north of I-435. Allred allegedly motioned for the woman to pull over, making her think something was wrong with her car. When she did, he attacked her, police said.

In the days following the attack, three other women called police to say they recognized Allred from photos in the media and identified him as being the man who drove beside them on local roads trying to get them to pull over. Six women have now called police to identify him as having allegedly done the same to them, said Lenexa Police Det. David Lewis-Jones.

Lenexa police continued gathering evidence this week against Allred by issuing a search warrant ordering him to surrender samples of his blood, head hair and saliva for use in trying to match his DNA with physical evidence from the assault.

Linda Lee Stewart  
8823 Gallery  
Lenexa, KS 66215

Honorable members of the Committee. Thank you for the opportunity to speak with you.

I am here today in favor of Bill 2159 guaranteeing law-abiding citizens the right to carry a firearm for personal protection against violent criminal attack while outside the home.

I know what it feels like to be vulnerable and invaded in my own home. One morning after returning home from a graveyard shift, I was home alone and asleep in my bed. A phone alarm woke me up. The phone was taken off the hook. At first, I thought it was quite odd, then I realized someone was in my house. While frozen in my bed, a complete stranger entered my room. I could not dial 911, the phone was not available, I was alone, and I was helpless. I felt my life was in danger.

I remember thinking the only thing I had going for me was the previous self-defense training I had. *Head for a crowd. Keep your keys ready to unlock your door, try not to show any fear.* I confronted my perpetrator verbally and by all means forcefully. To my surprise he turned and left.

After the incident, I was then able to dial 911. The police officer who responded told me I was lucky he had left the scene. Apparently, he was going through the neighborhood burglarizing. He had left an elderly couple tied up just a couple blocks away. Yes indeed, I was fortunate. A mother of four children. The important thing is that it made me think about my shift work. Leaving my home late at night. Parking my car and walking to work. I remember the police officer in the self-defense class informing us that pepper spray is considered useless basically for two reasons. 1) You have to get too close to the perpetrator to be effective, placing yourself in danger. 2) Many of the criminals of today are either on drugs or alcohol which renders pepper spray totally ineffective. I suddenly realized how totally unprotected I am...even to this very day.

In broad daylight, I have also experienced very recently, a frightening and intimidating experience. I was on I-35 southbound approximately at 435. This was almost the same location as a female who was raped on the interstate during the day, just a couple of months ago. Another driver harassed me by moving from beside me, then in front of me and slowing down while waving to me..then back beside, and behind me. There was nothing wrong with my car and he proceeded to follow me as I was headed towards Olathe. He followed me into Olathe, I was away from my home going to the library. I was scared to stop the car or lead him to my destination. I eventually lost him in traffic.

My point with these two stories is...that female or male, in home or out of your home, we are vulnerable to criminal activity.

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As a law abiding citizen, according to the Constitution of the United States it is my inherent and inalienable right to protect my life, the life of my family, and my property.

President Lincoln said, "Study the Constitution". We would do well to follow the advice of our leaders from history such as President Lincoln. In the Bill of Rights, Article II, it states, the right of the people to keep and bear arms, shall not be infringed.

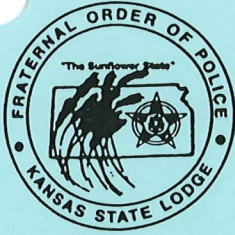
It is impossible for a law which violates the U.S. Constitution to be valid.

I am asking the House of Representatives to move forward with legislation in favor of a Right To Carry law which would permit the law abiding citizen to obtain a permit that would include a complete background check, safety training, and education regarding the laws which accompany this choice. All but 7 states now have provisions giving this right to their citizens.

I feel the current law prohibiting us from the right to carry a concealed firearm is punishing the law abiding citizen for the actions of the criminal.

Law abiding Kansas citizens respect the laws of our nation, the state of Kansas, their respective cities, and want peace and safety in their lives.

Thank you.



# *Fraternal Order of Police*

## Kansas State Lodge



Chairman Boston and members of the House Federal and State Affairs committee;

I am Joseph T. Gimar from Hutchinson, Kansas representing the Kansas Fraternal Order of Police.

On behalf of the Kansas State Lodge, Fraternal Order of Police in support of House Bill 2159.

In previous years the State Lodge made recommendations for added provisions to this proposal all of which appear to have been added.

We therefore continue our support of this legislation with the belief that the citizens of Kansas will use it responsibly.

Respectfully submitted,

Joseph T. Gimar  
Kansas State Lodge  
Fraternal Order of Police

Fed & State  
2-11-97  
Atch # 9





League of  
Kansas  
Municipalities

Legal Department  
300 S.W. 8th  
Topeka, Kansas 66603  
Phone: (913) 354-9565/ Fax: (913) 354-4186

***Legislative Testimony***

TO: House Federal and State Affairs Committee  
FROM: Don Moler, General Counsel  
RE: Comment on HB 2159  
DATE: February 10, 1997

First of all, the League would like to thank the Committee for allowing us to appear today to comment on HB 2885. I cannot overstate how strongly the League of Kansas Municipalities opposes any state preemption of local laws regulating the use of concealed weapons in our state. This is a fundamental question that the legislature should not undertake lightly. League records indicate that cities in Kansas have had the power to regulate all types of firearms within their communities since at least 1863. Over the 134 years which have elapsed since that time, we believe that cities throughout the state have acted reasonably on behalf of their citizens to regulate firearms in a responsible manner. The preemption provision of HB 2159, found at New Section 15, strikes at the very heart of Constitutional Home Rule authority of cities in Kansas and is a complete departure from the historical nature of firearm control in Kansas. Proponents of this legislation disregard not only the Constitutional Home Rule authority of cities and their responsiveness to their citizens, but also disregard the illustrious history of the State of Kansas and the public policy decisions that have been made over the past 134 years to allow cities to regulate firearms within their geographical boundaries.

The League has a long standing policy position against any state preemption of the ability of local authorities to determine local matters locally. Specifically in the **1996-1997 Statement of Municipal Policy**, which was adopted by the membership of the League of Kansas Municipalities at its annual convention in October 1996, Section G-7 entitled **Firearms Regulation** states as follows:

"We oppose any legislative efforts to restrict or preempt local home rule authority to regulate firearms, including the possession or discharge of firearms in public places within cities. As a matter of public safety, we also oppose any modification of state statute which would allow ordinary citizens to carry concealed weapons in public places."

Despite this policy statement in general opposition to allowing concealed carry, the League is not specifically opposing HB 2159. Rather, we are concerned about the preemption aspect of the legislation found at New Section 15. Cities have been protecting their citizens since the state was founded and are expected to do that today. In contrast, current state statutes controlling firearms are typically very broad in scope and limited in application. They essentially make it unlawful to: carry concealed weapons; give or dispose of a firearm to a person addicted to a controlled substance or who is a felon; remove or deface the identification marks of a firearm; discharge a firearm upon or across the land of another; discharge a firearm at an unoccupied dwelling; and possess a firearm within the state capitol building and other state buildings. Most substantive regulation of firearms in Kansas is done at the local level.

The League believes cities have used their power reasonably, effectively and prudently in regulations within their boundaries. We would point out that if the citizens of a given city believe that a governing body has overstepped its bounds in the area of gun control, or any other area for that matter, they have the ability to remove elected governing body members from office at the ballot box and replace them with a governing body who will pass ordinances and other local regulations more to the citizenry's liking.

Further we believe that the local preemption aspect of this legislation is onerous to good government and Constitutional Home Rule. **For this reason the League is suggesting removing the language currently found in section (a) of New Section 15 and replacing it with the following:**

***"No portion of this act shall be construed to restrict the Constitutional Home Rule authority of cities in Kansas to regulate the carrying, possession or use of concealed weapons within the boundaries of the city."***

We should not deceive ourselves into believing that the State of Kansas is truly in the gun control business, it isn't. Most gun control regulation is and has been done at the local level since statehood. We see no reason to change this long-standing policy which has served the state well for many, many years.

Diana Chambers  
6121 Halsey  
Shawnee, KS 66216

I am here today to express my support for House Bill 2159. I feel that Kansans, who are mentally stable and law abiding citizens, should have the option, if they desire, to carry a concealed firearm for self defense. I also feel that with the proper education, safety training, and a legal permit, we should be able to carry a concealed firearm no matter which city we live in.

I hope that you are aware of the study by Dr. Lott at the University of Chicago which was first released in the summer of 1996. It studied all the counties in the U.S. Let me mention some information Dr. Lott points out about this study. The states that allow their law-abiding citizens to carry a concealed firearm are enjoying a lower overall violent crime rate than those which don't. Murders have been reduced by 8.5%, rape by 5% and aggravated assaults by 7% and robbery by 3%. In the states which didn't have a right to carry law, they could have avoided approximately 1,570 murders, 4,177 rapes, and aggravated assaults by 60,000. While these numbers may not seem large to you, if your wife, mother, daughter, sister or niece, became one of these numbers, then they would no longer be numbers, but would be a very real painful part of your life. Wouldn't you want them to have the choice to be able to level the playing field and have the ability to protect themselves? The Lott study provides accurate data that supports the benefits of firearm ownership and giving citizens the right to carry them concealed. Allowing them to do so deters violent crime.

I deliver the Kansas City Star to commercial boxes and businesses in the very early hours of the morning. I deliver to boxes in the middle of Overland Park, supposedly a safe neighborhood. About 8 weeks ago two women were abducted from the apartment complex that I deliver to. I can't help but feel this might have been averted if they'd had the right to defend themselves. I feel very vulnerable at 4:00 am getting in and out of my vehicle, and would like to have a permit to carry a firearm.

I believe that a popular vote on our constitutional right to keep and bear arms is wrong. We are only one of a few states who do not have the legal right to carry a concealed firearm. I feel this is like the Occupational Safety and Health Act for the criminals. Making sure they have a safe environment in which to work. Law abiding Kansans should have the right to carry a concealed firearm, if they desire, to protect themselves and their families.

Thank you.

Fed & State  
2-11-97  
Atch # 11

Becky Hinkle  
24620 W. 55th  
Shawnee, KS 66226

Honorable Committee Members:

I appear before you today, representing only myself. I support House Bill 2159 which will permit law-abiding citizens the right to carry a firearm out of sight. I realize that as a responsible, educated citizen, I have basic rights guaranteed and protected by the constitution.

I was fortunate enough to grow up in a home where my daddy always had a gun hidden away in case he needed to protect his family. I never saw that gun, I never had any desire to look for the gun, however, all my childhood fears were a little more relaxed because I knew that my daddy could take care of me. My parents explained to their four children that Dad had a gun. He knew where it was kept. We did not need to worry about it or look for it. Consequently, we never had any desire to look for the gun.

My father is also a former volunteer policeman. He believed in his community enough that over thirty years ago, he volunteered to patrol that community along with several other good citizens. Thirty years ago, he never fired a bullet while on duty. Today, the world we live in is a much different world.

I have had several friends, co-workers, and family members who were also responsible, educated members of our society whose lives were taken by irresponsible members of our society who chose to drink and drive, utilize weapons, and terrorize people through violent rape.

I currently live in a neighborhood where a man with a violent past criminal history also lives. He served only seven years for a murder and now lives less than a quarter mile from my house. There are five new subdivisions in our neighborhood, and no one knows his past history or continued problems. I live in fear and have great concerns for my safety.

Five years ago, I had to attend the funeral of a man that I loved, and another man who was with him at the time. Their lives were taken by a drunk driver. The driver of the car never saw the inside of a jail cell and walks free today due to problems with our legal system. We have other criminals walking the streets as well, who attack us in other ways, having been paroled early or who were not caught and sent to jail. We need the ability to defend ourselves from them.

As a responsible citizen, some things in life are privileges and others are rights. I think it is important not to confuse the terms "right" and "privilege". While all of us have rights, guaranteed and protected by our constitution, some should lose those rights because they break the law. Law-abiding citizens have the right to defend themselves and I ask you to leave my rights intact and allow me the right to defend myself.

I believe that education, training, background checks and re-certification should be part of a bill that is passed. I urge you to consider and pass House Bill 2159.

Thank you for your time and consideration.

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# THE LAW ENFORCEMENT ALLIANCE OF AMERICA

*The Nation's Largest Coalition of Law Enforcement, Crime Victims and Concerned Citizens Dedicated to Making America Safer.*



## LEAA

**Testimony of  
James J. Fotis, Executive Director**

**Before the Kansas House Committee on Federal and State Affairs  
In Support of "Right to Carry" Legislation, H.B. 2159**

**February 10, 1997**

Good afternoon, and thank you for the opportunity to present the view of rank-and-file law enforcement on Kansas' "Right-to-Carry" legislation. My name is Jim Fotis and I'm the Executive Director of the Law Enforcement Alliance of America (LEAA).

LEAA is the nation's largest coalition of law enforcement professionals, crime victims and concerned citizens joined together to support legislation that benefits law enforcement, provides for the safety of citizens, and increases the penalties against criminals.

Today I represent over 50,000 Members nationally and nearly 1,000 Members here in the state of Kansas. I am speaking to you today with 13 years of personal experience. I retired from the police force as my department's highest decorated officer after sustaining injuries in the line of duty.

Rank-and-file police officers in Kansas and across the country are seeing good things happen because of "Right-to-Carry" laws that currently exist, in one form or another, in 43 states. Unfortunately, Kansas is one of seven states in America without this citizen self-defense law.

LEAA, rank-and-file cops, and crime victims strongly support passage of a non-discretionary, fair, concealed weapons permit statute here in Kansas.

As the debate over this issue heats up you'll likely hear opponents of the bill use the argument that citizens with concealed carry permits will pose an additional threat to working cops.

I would like to take the opportunity to respond to this claim before it clouds the true issue at hand -- allowing law-abiding citizens to defend themselves and their families from violent criminals.

After talking with thousands of rank-and-file officers, I know that cops think armed law-abiding citizens do not pose a threat to officers' safety; and in fact, they view them as a vital ally in the fight against violent crime. To date, LEAA is unaware of a single incident in which a legally licensed permit holder has shot a police officer with his or her concealed weapon.

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The argument that officers will have to approach people more carefully because of concealed firearm permits is groundless. Every credible law enforcement training program in this nation teaches officers to approach all patrol situations as if they pose a possible threat. The issuance of permits should be absolutely immaterial with respect to how officers perform their routine duties. Additionally, none of the police officers I have spoken with have expressed fear of massive outbreaks of violent crime by permit holders. The idea that permit holders will suddenly become violent has been totally discredited.

In addressing the phobia of increased gun violence by permit holders, I'd like to reiterate that of 383,452 carry permits issued in Florida, in the period ending November 3, 1996, **only 72** - less than 0.019% -- have been revoked because permit holders committed crimes when guns were present (though, not necessarily violent crimes). And, as impressively, Florida's homicide rate has dropped more than 21% to a level of 4% below the national average.

In fact, since neighboring Oklahoma began issuing permits on January 1, 1996, 15,081 permits were issued (more than a quarter of them to women) and only 4 -- 0.027% -- were revoked for any reason -- not necessarily because of a firearm crime.

The concerns about criminal behavior of permit holders have been conclusively proven to be completely unfounded. Law-abiding citizens who are responsible enough to obtain the necessary amount of firearms training and who go through the permit process are not the problem when it comes to violent crime.

I would also like to dispel the image that everyone is going to be carrying a firearm when this bill passes. First of all, carrying a firearm for protection is a very personal decision, which many will decide against. Secondly, with "shall issue" permit systems, like the one proposed here in Kansas, and available in 31 other states, the average number of persons who will obtain permits is only 1-4% of those individuals qualified to do so.

Virtually all available empirical evidence shows "Right-to-Carry" or "shall issue" legislation is an asset to the safety and welfare of a state's citizens. In fact, a landmark scientific study completed by University of Chicago Law School Professor John Lott, covering all 3,054 counties in the nation over a 15 year period, revealed the failure of gun control laws and the success of citizen "Right-to-Carry." His study found that by adopting "shall issue" laws, states reduced murders by 8.5%, rapes by 5%, aggravated assaults by 7%, and robbery by 3%. If those states that did not permit carrying concealed handguns in 1992 had permitted them back then, citizens would have been spared approximately 1,570 murders, 4,177 rapes, and 60,000 robberies each year.

Professor Lott's study also showed how passing these laws provided the biggest drops in violent crime in large cities where crime rates are highest. In counties with populations of more than 200,000 people "Right-to-Carry" laws produced an average drop in murder rates of more than 13%. His study also shows that these laws benefit women -- who are at the highest risk of becoming a victim of violent crime -- the most.

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The first role of government is to safeguard its citizens and "Right-to-Carry" legislation recognizes this fact. If passed, it will provide the citizens of Kansas the means they need to protect themselves.

The facts are in... and the record is clear: honest citizens who are given the choice whether or not to have the means to provide for their own security are not a threat to society. And cops are no longer buying into the doom and gloom predictions about "Right-to-Carry" laws. "Right-to-Carry" laws have passed the test of scientific analysis and convinced the court of public opinion that these types of laws save the lives of honest Americans.

The citizens, the police, and the crime victims of Kansas implore you to pass this important legislation this year.

Thank you.

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Roger T. LaRue  
PO Box 2603  
Olathe, Kansas 66063  
February 9, 1997

House Federal and State Affairs  
Committee  
Kansas House of Representatives  
Topeka, Kansas

Dear Ladies and Gentlemen,

Thank you for the opportunity to speak to you today in regards SB21, and HB2159, which will come before the Senate and the House during this legislative session.

I am a Police Officer, I have served in Law Enforcement since March of 1970, on the 1st of Feb., I completed 25 years as a policeman for Olathe, Kansas, and have begun my 26th year. I began my career in Police work in Russell, after returning from duty with the Marines in Vietnam. I continued service with the Hays Police Department, and then to the Federal Protective Service, United States Special Police, based in Kansas City, Missouri.

Presently I am a Detective Sergeant with the Olathe Police Department, I the supervisor for the Crimes Against Persons unit with my department, which investigates Homicides, Robbery's, Sexual Assaults, and assaults against persons, both misdemeanor and felony. I am also assigned to the Kansas City Metropolitan Metro Squad, as a Major Case Investigator, and Lead Officer, where in I and others investigate Homicide's in an 8 county area in the metropolitan Kansas City area.

I have 7 1/2 years as either a uniformed officer, or a Field Sergeant, 1 year as a Watch Commander, and nearly 17 years as a Sergeant in the Detective Division, working Burglary, Narcotics, and the remaining nearly 8 years supervising Crimes Against Persons.

The purpose of my being here today is to assure you that Law Enforcement Officers **do** support the passage of

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"Right to Carry" legislation, particularly the line or field officers who deal with victims and criminals every day.

As a LEO, I have no fear of law abiding persons having the ability to choose to carry a firearm for protection outside of the home, I know that under the bills indicated above that those persons who receive their licenses, will have undergone a background investigation, and completed a firearms training course. I was present last year during hearings when the *Sheriff of Shawnee County Kansas, the Kansas State Troopers Association, and the Kansas Fish and Game Officers Association* all went on record in support of this type of bill.

I would like to share an incident that I recall from a cold winter night when I was a young Field Sergeant, stopping a car on Kansas City Road, leading from our city to Lenexa. I had stopped the vehicle for a bad license tag, but upon obtaining identification from the driver and his three passengers, I knew as I ran record checks on them that four of the five were felons of some renowned. The dispatcher advised that there were no units available to assist me at that time, and as it turned out, I didn't need any immediately, after all. I heard the crunching of feet on snow to the side of me, and then heard a loud voice call out "you do what the officer told you, and get your hands up", a resident had seen my car stop, and after what the resident thought was a sufficient time for me to have released the car and gone on, or a second officer to come to my assistance, the Citizen came out, with his 20 gauge shotgun to see if I needed help. Beside the car we later found a .38 caliber pistol, and a .22 caliber rifle, that the cars occupants had thrown out sometime after I had stopped them.

In 1994, a friend of mine was a murder victim, he had given the suspect his money, and was killed by the robber anyway.

In 1995 a friend of mine was walking along the path bordering I-435, at Antioch, and was menaced by a deranged individual who made gestures as if he had a weapon, causing my friend to retreat, finding only a rock to use to defend himself, but retreat he did, rock in hand. There have been

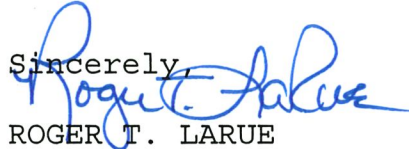
three or four brutal rapes in that same area in the past couple of years, unsolved.

As a Police Officer, I know better than most that we, the police, can not be everywhere to protect the persons who live in our cities, we seldom are in a position to be at the scene of a in progress rape, robbery, or murder, we must pick up the pieces afterward.

I ask you to give the honest law abiding citizens in our State the ability to defend themselves, this legislation makes everyone safer.

I would be happy to talk to any of you further, my home phone number is 913 764-1173, and my work number is 913 782-4500.

Sincerely,



ROGER T. LARUE

TESTIMONY OF CAROLYN WASSON ON HB. 2159  
FEDERAL AND STATE AFFAIRS COMMITTEE  
KANSAS HOUSE OF REPRESENTATIVES  
FEBRUARY 10, 1997

Ladies and Gentlemen thank you for your consideration and attention. My name is Carolyn Wasson. I am a resident of Overland Park. I have been a woman since 1947, a mother since 1966, a licensed Realtor since 1974. I appreciate the opportunity to speak to you today, about my personal fears and concerns for safety that are directly related to both the facts that I am a woman and my chosen profession.

I was born and raised in a small town in upstate New York. My family was involved in sustenance hunting during my early years and my education about firearms came as a young child, and I have no fear of them. I was also fully cognizant of the damage they could do.

Because of the size of the town and the area, I knew most of the residents. Everyone knew everyone else, and people who displayed themselves to be a threat were dealt with swiftly by the local authorities. I have four children, three daughters and a son. My husband and I raised them to have respect for firearms and the power they have, just as we had been raised. Each child went through hunters safety programs between the age of eleven and twelve even if they said they never intended to hunt. Because we felt that the knowledge and training were important, and because there were self-defense firearms in our home. They were shown at early ages by my husband's example of shooting water jugs full of water that firearms were not toys and had very destructive power. We made sure their curiosity was satisfied by being able to handle and shoot under correct adult supervision.

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All three girls at times have had to walk alone. All four children have had jobs that released them late at night or at times when people were not always around to watch for their safety. It saddens me that until they are of legal age the most any parent can do is teach them to be aware of their surroundings and pray for their protection. My second daughter was Miss Kansas in 1991 and traveled this great state throughout her reign. As parents we were always concerned about her safety. She was provided a cellular phone that did ease our fears to some degree and would bring people after the fact. These phones do not work in all areas, nor can you use them to defend yourself.

There are certain circumstances in my line of work that cause you to take actions that are not always the safest. It is a business driven by emotion and "Hot Times." It is not unusual for someone to call and want to see a home in fifteen minutes. This home may be vacant and they just want you to "meet them there." It is not unusual that no one will know who you are with most of the time. You go by instinct and log your showings with other companies but provide no one with an itinerary. After the fact it would be possible to trace where you had been but this would take some time. It is not reasonable to call and ask for a police escort on these potentially dangerous appointments. Construction sites also propose a threat to a woman alone. Yet each day thousands of women check into a vacant house to wait for that potential buyer to walk in.

Throughout the years I have found myself in circumstances that were a bit frightening. One example is a time that while traveling to a showing to meet a buyer my car hydroplaned and hit a pole. A man drove up on a tractor and instead of offering to help proceeded to expose himself to me.

I have personally known women who have been raped or worse and had no way to defend themselves. There are three instances during my career that come to mind in which Realtors have lost their lives. One was a man in North Kansas City who met someone at a vacant house and was found dead in that home several days later. There was a young woman who offered to house-sit while her clients were out of town looking for a new home was found raped and murdered. Thirdly, a Realtor whose seller insisted she had told him that she would get him a certain price for his home was shot for bringing him less than full price-offer. In each case the Realtors were unable to defend themselves because in this state there is no provision for concealed carry. In our line of work strapping on a holster or having a firearm on the seat beside you is not exactly conducive to closing the sale or establishing rapport with the customer.

In closing, I want you to know I realize the best defense is acute awareness and anticipation of a situation. I do take these precautions. I urge you to enact the legislation that will allow properly trained individuals the ability to carry a concealed firearm to defend themselves. As an assistant DA recently said to my friend, and I quote " Lady. . . in this state you have the right to die, but you do not have the right to carry a firearm with which to defend yourself."

**Testimony of Cindy Combs, Hutchinson, Ks.  
In support of the Right-to-Carry  
February 10, 1997**

Hello my name is Cindy Combs and I appreciate the opportunity to testify before you today.

I was born and raised on Kansas soil and I currently live in Hutchinson, Kansas. I am the mother of three young Kansans, Cody, age 12, Cammie, age 10 and my youngest, Casey, is two years old. I am proud to announce that Cody is ready to graduate from grade school and will enter Junior High this fall.

I am here today out of concern for my safety, the safety of Cody, Cammie and Casey, and the safety of all Kansas families like mine. Thankfully, neither I nor my three children have ever been the target of criminal attack, but we ... and every other law-abiding Kansan ... are victims none-the-less. We are victims of fear --- the fear of a violent crime.

This fear prevents us from walking through the woods away from the safe company of others. This fear prevents us from jogging down a country road, breathing the fresh air. Instead, we must jog down congested streets, breathing car fumes. This fear makes us prisoners in our homes and teaches us to dread the darkness. This fear splinters our communities and prevents us from fully realizing the blessings of this great state.

As a law-abiding citizen, I have experienced this fear personally and as a certified firearm safety instructor, I have heard the same fears expressed from some of the 200 people to whom I have taught firearm safety.

One of my students told me of being stalked by her ex-husband. She suffered emotionally and physically for two years. He was clever, using threats of harm against her and her kids. He didn't fear the police and would even abuse her in public.

Another student was attacked as she was helping a friend move. When they entered her friend's house they immediately found her friend's toy poodle, dead with it's throat cut. They ran for their car but were chased by a knife wielding assailant who buried the knife blade deep into the car seat, barely missing my student's friend.

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Violent crime and the fear it causes is a fact of life. Fear made these women choose the responsibility of firearm ownership over the feeling of helplessness in the face of a violent crime. I take great care to store my firearms in my home away from my children for their safety, but I am prepared to use my firearms to defend my life and those of my family if someone were to enter my home and attack us.

Unfortunately, Kansas law denies me and my students that right once we venture outside. Kansas law says that our lives are precious enough to defend in our kitchens and bedrooms, but not on a deserted street or in a dark parking garage.

One of my students told me of her victimization in a private conversation. She said, "When I was raped, I realized I couldn't win in the struggle so I tightly shut my eyes. I couldn't have identified him in a line-up, but his body odor and breath were so suffocating ... I'll forever remember his smell."

I cannot think of anything much more disturbing than being so helpless in the face of violence that all you can do is shut your eyes. I urge you to give the law-abiding citizens of Kansas a choice. Please vote in favor of Kansans' right to self-defense and the right to carry.

Thank You.

Submitted for House and Senate hearings on concealed weapons  
Revised Feb. 13, 1997

My name is Rockwell Greene from Lenexa, Kansas.

A close friend said, "*I would rather bail you out of jail (for having a concealed weapon within your reach) than identify your body at the morgue!*" Therefore, I support allowing responsible Kansas citizens to carry concealed weapons, emphasize RESPONSIBLE citizens for that and the following reasons:

The rights given to us by our creator are secured (guaranteed) by the United States Constitution. This includes all of the Bill of Rights including the Second Amendment. We are all here today because the First Amendment guarantees "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Let me give a rebuke to many of you in the "conservative community." You are not taking your "community service" responsibility seriously. You are selfish; you are only thinking about your own ease and comfort! You may have never even purchased a rifle. I'll bet that many of you don't even own a decent store of ammunition.

Too many Second Amendment advocates have only focused in on the second clause of the second article of the Bill of Rights which reads: "the right of the people to keep and bear Arms shall not be infringed." You have ignored the first clause: "A well regulated Militia, being necessary to the security of a free State..."

The "militia" is the citizenry, particularly the male citizens over the age of 17, although it does not exclude the women. Notice that the Second Amendment does not say that a well regulated militia is a "neat idea" or even a "right" -- it is absolutely *necessary* to preserve your freedom!

What is a "well regulated militia?" Well, let me say what I think a "sloppy" militia is -- a citizenry untrained in the use and care of firearms; a citizenry that leaves the defense of the nation only to the "professionals." And without arms, we're left with an unarmed militia, unable to defend anyone or anything! This is not what is stated in the Second Amendment!

Why should the young men who join the militia be the only ones who put their life on the line to defend the Constitution? We are all Americans; we're all soldiers of the Republic!

A "free state" is one in which every citizen holds the defense of his (or her) country from external invaders and internal marauders to be a sacred responsibility. A "slave state" is one in which the armed protectors of the community are limited to the paid agents of the government (the police and military). According to our Constitution we are all citizen police officers and citizen soldiers.

If you read the Federalist Papers, you will find that the greatest concern of the colonists was that a standing army would one day destroy the liberties of the people. The solution to this concern was that every adult citizen would form a huge militia ready, willing, and able to halt any invasion, insurrection, or totalitarian take-over of the country.

I know we have a crime problem in certain parts of the country and President Clinton wants to put 100,000 new police officers on the street. I will do him one better: I want to put one hundred million citizen militia members, trained in the use of arms and basic survival skills, into our communities!

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This "Constitution solution" would not only erase the crime problem, but it would place an enormous check on any potential governmental abuse of the people. In addition, this solution would obliterate any chance of a foreign power ever landing a single invasion troop inside our borders!

Let's shoot down (no pun intended) once and for all the ridiculous notion that the Second Amendment only grants the government the right to keep and bear arms. The Second Amendment does not "grant" us any right to bear arms, either individually or collectively. Our rights do not come from the Constitution; they come from the Creator! God granted us the right to keep and bear arms based on our responsibility to protect our lives, property, family, community, and nation.

The Second Amendment prohibition merely forbids all levels of government from infringing upon our ability to purchase, keep, and bear the same arms possessed by our official police or military forces. Your failure to take part in the protection of your country is a grave sin of omission. It is the kind of sin that will result in the eventual loss of freedom. So repent, save up your spare change for your firearm and ammunition fund, and get down to the range!

I urge the Kansas Legislature to enact a law allowing responsible citizens who have not been convicted of a crime to purchase a concealable weapon, receive at least 10 hours of class and range instruction in its safe, legal and proper use, then be issued a permit to carry that particular concealable weapon. Such permit should be renewable upon annual or biennial demonstration by the owner of safe proficiency using it, and revocable upon the permit holder's conviction of a capital crime. I support HR 2159 because I think the restrictions therein are very adequate to insure only RESPONSIBLE persons are issued concealed weapon permits!

Since, if we do not remember history, we are doomed to repeat it, I cite the following reasons for allowing concealed weapons: (*Source: Jews for the Preservation of Firearms Ownership, 2872 Wentworth Ave., Milwaukee, Wisc., 53207.*)

1. The Soviet Union established "gun control" in 1929. From 1929 to 1953, 20 million political dissidents, unable to defend themselves, were rounded up and exterminated!
2. *Turkey established "gun control" in 1911. From 1915 to 1917, 1,5 million Armenians, unable to defend themselves, were rounded up and exterminated!*
3. Germany established "gun control" in 1938. From 1939 to 1945, several million Jews, Gypsies, homosexuals, mentally ill people and other "mongrelized peoples," unable to defend themselves, were rounded up and exterminated!
4. *China established "gun control" in 1935. From 1948 to 1952, 20 million political dissidents, unable to defend themselves, were rounded up and exterminated!*
5. Guatemala established "gun control" in 1964. From 1964 to 1981, 100,000 Mayan Indians, unable to defend themselves, were rounded up and exterminated!
6. *Uganda established "gun control" in 1970. From 1971 to 1979, 300,000 Christians, unable to defend themselves, were rounded up and exterminated!*
7. Cambodia established "gun control" in 1956. From 1975 to 1977, 1 million "educated people," unable to defend themselves, were rounded up and exterminated!

I close with a quote from *George Washington*: "Firearms stand next in importance to the Constitution itself. They are the American people's liberty teeth." And *Samuel Adams*: "The Constitution shall never be construed to authorize Congress to prevent the people of the United States who are peaceable citizens from keeping their own arms."

# Austin American-Statesman

SUNDAY, February 2, 1997

## Shootout in mild West

**T**exas' concealed-carry handgun law was enacted amid concerns in some quarters that it would lead us back to the days of the Wild West. But even though more than 116,000 Texans now are licensed to carry, there have been only a few incidents.

That reality is one reason why state Sen. Jerry Patterson, R-Pasadena, probably will have little trouble getting his "cleanup" amendments (S.B. 204) passed this session. Another is Article 1, Sec. 23 of the state Constitution, which specifically gives the Legislature the power to regulate the wearing of arms.

Certainly, people and local governments have reason to be concerned about gun violence, but they should realize that license holders aren't contributing to violence, for good reason. Those who apply for a license must be solid citizens. Also, few of those who obtain licenses carry their weapons.

Most license holders just want the ability to legally carry if they ever feel compelled to do so. That conclusion is derived from conversations with dozens of license holders, police officers and state lawmakers. It would be a good bet that if the Department of Public Safety did a survey of licensees to find how many regularly carry, the answer would be a lot closer to zero than 10 percent.

Why? For one thing, there is a huge liability risk. If a license holder shoots at an attacker and the bullet either misses the intended target or passes through the assailant and causes property damage or injures or kills an innocent person, a lawsuit is inevitable.

Also, only a desperate need to protect one's life or that of another would cause most people to actually use their weapon, and such situations are exceedingly rare.

Furthermore, even small handguns are a pain to carry concealed, as the law requires. That is especially so in the Texas summer.

Thus, whatever citizens think about the law, or about Patterson's proposed revisions, there is no empirical evidence that should lead to the conclusion that their enactment would create problems.

Patterson's revisions do not attempt — as some seem to be saying — to practically make people wear guns in churches, hospitals or government buildings. The law would continue to prohibit the carrying of weapons in places where they logically should not be worn: bars, schools, correctional facilities, hospital emergency rooms and trauma centers, and in areas of government buildings where meetings are taking place. Private businesses may prohibit weapons. And both private and public employers would be able to prohibit employees who are license holders from carrying on their premises.

But Patterson would give more institutions the ability to choose. A rash of church burnings, for example, might lead a church to permit a pastor who lives on premises to carry. A hospital might choose to permit employees who work late hours to carry.

The state attorney general has issued several opinions that interpret the law to give municipal transit authorities and county commissions certain regulatory authority. Patterson's measure would negate those by codifying the Legislature's authority over wearing of guns. That has some county and city governments worried, enough to pass resolutions in support of local control. State Rep. Sherri Greenberg, D-Austin, has introduced a measure to allow cities to regulate the carrying of firearms in parks.

Delegating regulatory authority to cities and counties that want it seems sensible. But given the sterling record of license holders and the hammer that the Legislature has — clear constitutional authority — cities and counties need to make their case based on facts, not emotion.

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***People and local governments have reason to be concerned about gun violence, but they should realize that license holders aren't contributing to violence.***

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THE NATION

# Study: Weapons laws deter crime

## Fewer rapes, killings found where concealed guns legal

By Dennis Cauchon  
USA TODAY

In a comprehensive study that may reshape the gun control debate, researchers have found that letting people carry concealed guns appears to sharply reduce killings, rapes and other violent crimes.

The nationwide study found that violent crime fell after states made it legal to carry concealed handguns:

- ▶ Homicide, down 8.5%.
- ▶ Rape, down 5%.
- ▶ Aggravated assault, down 7%.

The University of Chicago study, obtained by USA TODAY, is set to be released next Thursday. But its impending release has already sent shock waves through the gun-control debate because of the effect it may have on one of the most controversial areas of gun law. Since 1986, the number of

states making it legal to carry concealed weapons has grown from nine to 31.

The National Rifle Association has led this fight in state legislatures, arguing that concealed weapons deter crime.

Gun control supporters counter that these laws cost lives by increasing accidental deaths and impulsive killings.

The study analyzed FBI crime statistics in the nation's 3,054 counties from 1977 to 1992 to see if the introduction of concealed-weapons laws had any effect on crime.

The results overwhelmingly supported the idea that these laws deter violent crime.

The drop isn't primarily caused by people defending themselves with guns, says John Lott, the study's author. Rather, criminals seem to alter their behavior to avoid coming into contact with a person who might have a gun.

Concealed-weapons laws have drawbacks, too, the study found. Auto theft and larceny increased. Criminals shifted to property offenses, in which contact with a victim is rare, says Lott.

"The policy implications are undeniable: If you're interested in reducing murder and rape, then letting law-abiding, mentally competent citizens

carry concealed weapons has a positive impact," says Lott.

Gun control backer Josh Sugarman of the Violence Policy Center blasted the study: "Anyone who argues that these laws reduce crime either doesn't understand the nature of crime or has a preset agenda."

Lott, who spent two years on the study, says he sent his research to scholars who might disagree with him and made changes to satisfy the critics.

David Kopel, a gun control scholar who did a smaller study on the same issue, says, "Lott's study is so far ahead of all previous studies that it makes them all worthless."

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# Discovering Security in the Barrel of a Handgun

The majority of American communities are sinking fast in a mire of crime and drugs. Who knows this better than we do? It becomes more obvious every day that gangs, drugs and violent crime are taking over our lives at an alarming rate. Citizens of many communities have had enough and are demanding additional ways to ensure their personal safety.

The *Second Amendment* gives us the right to bear arms. But should American citizens also have the right to carry concealed firearms or wear guns fully exposed? By allowing the public to carry firearms, do we become a society of "pistol-packin'" vigilantes?

Most people are law-abiding citizens who are concerned about crime in their communities. Should they have the right to carry weapons for personal safety and the safety of their loved ones?

The right to carry does not allow individuals to take matters into their own hands. Laws in nearly every state require gun purchasers to comply with strict regulations before any weapon is obtained. Those desiring to purchase a gun are subjected to an application process that includes a criminal background investigation. Should this application process go one step further and require psychological testing?

Applicants must be fully trained, qualified and demonstrate their ability to safely handle weapons. Ultimately, those using a weapon are held accountable for their actions.

In Texas recently, two vehicles bumped mirrors in traffic. What should have been a minor traffic dispute left one individual dead and another arrested for murder.

The shooter was lawfully licensed to carry his gun, and he shot a violent attacker who was bent on causing him bodily injury. The man had repeatedly yelled at his attacker to stop, but his words went unnoticed.

The victim in this incident was not the man who ended up dead in traffic, but the shooter who defended himself from an aggressive attack.

His actions clearly fell within the bounds of justifiable homicide. He was attacked; he warned the suspect to stop

striking him; he was fearful for his life; and finally, he used deadly force in order to prevent further injury to himself.

The extensive media coverage sensationalized the incident. But I believe coverage of these kinds of events will put the word out on the street. Law-abiding citizens are taking steps to protect themselves and their families.

Numerous states favor the citizens' right to carry firearms and have seen a marked decrease in crime statistics. Crime has dropped as much as 26 percent in some states, and legislators are joining citizens in an attempt to reduce crime to a manageable level. By allowing civilians the right to carry, legislators send a message to criminals that they've had enough. I believe criminals would think twice about committing crimes if they knew their potential victims could draw a weapon and defend themselves with deadly force.

Lobbyists, politicians and "right to carry" proponents will continue their push for legislation supporting an individual's right to protect himself. But it is in only one battle in the unceasing war against crime. The system must also take a stronger stance on "three strikes" laws. Criminals convicted of violent crimes must serve their entire sentence. It's time to let criminals know they no longer are in control.

Take a look at individual states where right to carry laws have been enacted. Do civilians regret the passage of such legislation? Are law-abiding citizens still afraid to simply walk in their own neighborhoods? Or are the streets a little bit safer for them?

I cringed when I learned that eight out of 10 Americans will be the victim of violent crime at least once in their lifetime. Statistics provided by the Department of Justice for 1994 show the use of handguns by criminals is steadily on the rise with no end in sight. I have no intention of becoming another statistic. And, if given the right to fight back against crime, I intend to do so.

—Randall C. Resch  
Editor, POLICE

# POLICE

THE LAW OFFICER'S MAGAZINE

JUNE 1996

VOLUME 20 NUMBER 6

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POLICE is the most widely read law enforcement magazine in America and is available only to sworn law enforcement officers. POLICE editor Randall C. Resch's June 1996 editorial concerning right-to-carry laws is reprinted here with permission.

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# The Washington Post

A20

WEDNESDAY, JUNE 26, 1996

## For the Record

*From "The Untold Triumph of Concealed-Carry Permits" by David Kopel in the July-August issue of Policy Review:*

Whenever a state legislature first considers a concealed-carry bill, opponents typically warn of horrible consequences. Permit holders will slaughter each other in traffic disputes, while would-be Rambos shoot bystanders in incompetent attempts to thwart crime. But within a year of passage, the issue usually drops off the news media's radar screen, while gun-control advocates in the legislature conclude that the law wasn't so bad after all....

Has this movement toward concealed-carry laws made America safer or more dangerous?...Historian Clayton Cramer and I examined homicide rates in states that had adopted concealed-carry laws, adjusted for the effects of national homicide trends. In all but one state we examined, homicide rates did not appear to change as a result of the laws....The lone exception was Florida, where the murder rate started an immediate, steady decline....

All [previous] research about concealed-carry laws has been eclipsed by a comprehensive study by University of Chicago Law professor John Lott, with graduate student David Mustard. Examining crime data for 3,054 counties, [they] found that while concealed-carry reform had little effect in rural counties, in urban counties reform was followed by a substantial reduction in homicide and other violent crimes such as robbery. At the same time, there was a statistically significant rise in nonconfrontational property crimes, such as larceny and car theft. Apparently, many criminals concluded that the risks of encountering a victim who could fight back had become too high.

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# THE WALL STREET JOURNAL.

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INTERNET ADDRESS: <http://wsj.com>

WEDNESDAY, AUGUST 28, 1996

EASTERN EDITION  
WHITE OAK, MARYLAND

A13

## More Guns, Less Violent Crime

For the Democratic Party, whose convention this week is showcasing gun-control advocates, the solution to violent crime is clear—more regulation of guns. Monday's convention speeches by James and Sarah Brady were filled with moving stories of their personal suffering.

While the impacts described on both sides of the issue do exist, the crucial question underlying all gun-control laws is: What is their net effect? Are more lives lost or saved? Do they deter crime or encourage it? Anecdotal evidence obviously cannot resolve this debate. To provide a more systematic answer, I recently completed a study of one type of gun-control

### Rule of Law

By John R. Lott Jr.

law—laws on concealed handguns, also known as “shall-issue” laws. Thirty-one states give their citizens the right to carry concealed handguns if they do not have a criminal record or a history of significant mental illness. My study, with David Mustard, a graduate student in economics at the University of Chicago, analyzed the FBI's crime statistics for all 3,054 American counties from 1977 to 1992.

Our findings are dramatic. Our most conservative estimates show that by adopting shall-issue laws, states reduced murders by 8.5%, rapes by 5%, aggravated assaults by 7% and robbery by 3%. If those states that did not permit concealed handgun in 1992 had permitted them back then, citizens would have been spared approximately 1,570 murders, 4,177 rapes, 60,000 aggravated assaults and 12,000 robberies. To put it even more simply: Criminals, we found, respond rationally to deterrence threats.

The benefits of concealed handguns are

not limited to just those who carry them or use them in self-defense. The very fact that these weapons are concealed keeps criminals uncertain as to whether a potential victim will be able to defend himself with lethal force. The possibility that anyone might be carrying a gun makes attacking everyone less attractive; unarmed citizens in effect “free-ride” on their pistol-packing fellows.

Our study further found that while some criminals avoid potentially violent crimes after concealed-handgun laws are passed, they do not necessarily give up the criminal life altogether. Some switch to crimes in which the risk of confronting an armed victim is much lower. Indeed, the downside of concealed-weapons laws is that while violent crime rates fall, property offenses like larceny (e.g., stealing from unattended automobiles or vending machines) and auto theft rise. This is certainly a substitution that the country can live with.

Our study also provided some surprising information. While support for strict gun-control laws usually has been strongest in large cities, where crime rates are highest, that's precisely where right-to-carry laws have produced the largest drops in violent crimes. For example, in counties with populations of more than 200,000 people, concealed-handgun laws produced an average drop in murder rates of more than 13%. The half of the counties with the highest rape rates saw that crime drop by more than 7%.

Concealed handguns also appear to help women more than men. Murder rates decline when either sex carries more guns, but the effect is especially pronounced when women are considered separately. An additional woman carrying a concealed handgun reduces the murder rate for women by about three to four times more than an additional armed man reduces the murder rate for men. Victims of violent crime are generally physically weaker than the crim-

inals who prey on them. Allowing a woman to defend herself with a concealed handgun makes a much larger difference in her ability to defend herself than the change created by providing a man with a handgun. Guns are the great equalizer between the weak and the vicious.

At the Democratic convention, President Clinton is likely to play up his proposed expansion of the 1994 Brady law, which by making it harder for men convicted of domestic violence to obtain guns is designed to reduce crime against women. Our study is the first to provide direct empirical evidence of the Brady Law's effect on crime rates—and we found just

*States that permit citizens to carry concealed handguns reduced murders by 8.5%.*

the opposite result: The law's implementation is associated with *more* aggravated assaults and rapes. Mrs. Brady's exaggerated estimates of the number of felons denied access to guns in her speech Monday are a poor measure of the law's impact on crime rates.

We also collected data on whether owners of concealed handguns are more likely to use them in committing violent crimes. The rarity of these incidents is reflected in Florida's statistics: More than 300,000 concealed-handgun licenses were issued between Oct. 1, 1987, and Dec. 31, 1995, but only five violent crimes involving permitted pistols were committed in this period, and none of these resulted in fatalities.

What about minor disputes such as traffic accidents? Are legal owners of concealed handguns more likely to use them in such situations? In 31 states, some of which have had concealed weapons laws for decades, there is only one recorded in-

cident (earlier this year in Texas) in which a concealed handgun was used in a shooting following an accident. Even in that one case, a grand jury found that the shooting was in self-defense: The shooter was being beaten by the other driver.

And what about accidental deaths? The number of accidental handgun deaths each year is fewer than 200. Our estimates imply that if the states without “shall issue” laws were to adopt them, the increase in accidental handgun deaths would be at most nine more deaths per year. This is small indeed when compared to the at least 1,570 murders that would be avoided.

While no single study is likely to end the debate on concealed handguns, ours provides the first systematic national evidence. By contrast, the largest prior study examined only 170 cities within a single year. The nearly 50,000 observations in our data set allow us to control for a range of factors that have never been accounted for in any previous study of crime, let alone any previous gun-control study. Among other variables, our regressions control for arrest and conviction rates, prison sentences, changes in handgun laws such as waiting periods and the imposition of additional penalties for using a gun to commit a crime, income, poverty, unemployment, and demographic changes.

Preventing law-abiding citizens from carrying handguns does not end violence, but merely makes them more vulnerable to attack. The very size and strength of our results should at least give pause to those who oppose concealed handguns. The opportunity to reduce the murder rate by simply relaxing a regulation ought to be difficult to ignore.

*Mr. Lott is a professor at the University of Chicago Law School. The results of his study will be published in the January 1997 issue of the university's Journal of Legal Studies.*

# Crime victim wants to take back control

## Woman who was raped would use deadly force for defense if necessary

(EDITOR'S NOTE: Today is the last in a series of five stories about concealed weapons, which is expected to again be taken up by the Kansas Legislature in its next session.)

**Ann Kohn**  
Daily News Reporter

In a year's time, much has changed for Jan Exby.

After the Overland Park woman was attacked and raped more than a year ago in Mission by a man carrying a gun, she decided it was time to take back the control.

Now, she owns a gun — a snub-nosed .38-calibre Smith and Wesson.

"I came to the realization that I would have some real problems as to being able to defend myself," Exby said. "I have always felt that people have a right to defend themselves. That's a (right) that's always been there."

Exby goes to a local shooting range several times a month to sharpen her shooting skills. She's

taken classes. And over time, she has grown more accustomed to the loud noise at the range.

If she were able to carry her gun concealed, she would. A conceal and carry law, she says, would be a means of control for regular people. Criminals will get guns. As it stands now, she said, it's the victims who have no control.

"This is really a sleeper issue," she said. "People have a definite stance on the right to defend yourself. It's a very personal issue."

"Right now, you can protect yourself in your home and in your car. But are you any less important than when you're out of your car?"

It's there that you are most vulnerable. You can't control what other people are doing or trying to do. The best thing that you can do is have a deterrent."

Exby confides that today she is more careful than before in being aware of her surrounding. But she is also quick to point out that often when crimes occur, it is the victim who is blamed. And often times when the police become involved in an incident, it's already too late. The damage has been done.

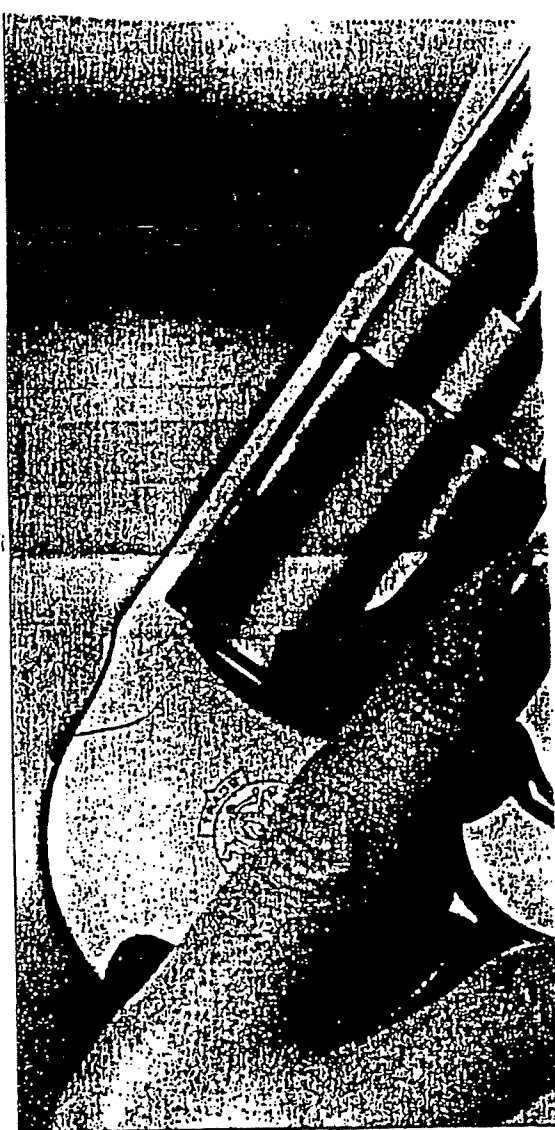
"You usually hear about the police cleanups," she said. "Seventy-five percent of all woman will be a victim of violent crime before they die. Those are rotten odds."

Through the group Safety for Woman and Responsible Motherhood (SWARM), a group originating out of Colorado, Exby said she has heard numerous stories of woman and older individuals who have been a victim of a crime or are currently being stalked.

As it stands now, those victims have no control.

At local gun shops and shooting ranges, employees said it is in no way unusual for woman to buy and practice shooting guns. In fact it's on the increase, they say. One local shooting range even offers "ladies day and evening" prices one day during the week.

Both Exby and her husband,



Jan Exby brandishes her snub-nosed .38 calibre S

Jim, contend that if a conceal carry law is passed, it will benefit everyone.

"As a nation we're pretty deterrent orientated," Jim Exby said. "We have weapons and we have secret weapons. A gun does not have a life of it's own. It's the person who decides how to use it. Most people already own guns, they already practice with them and they know how to use them. They just want to protect themselves."

And would Exby use a gun if she had to?

The answer is a resounding yes, when it pertains to having to protect herself or family members.

"Unless you've been in a situation where you know you could die, you don't quite know what it feels like until you have been through it. I don't want to shoot anyone, but if I have the choice, you'd want it to be there."

"That's not always going to be the answer but it's an option for you. Right now, we don't even have that option."

THURSDAY  
DECEMBER 5, 1996

THE OLATHE  
DAILY  
NEWS



# SWARM favors concealed weapons law

Several area women are attending meetings of a new organization that advocates carrying concealed weapons legally.

By MICHAEL DEKKER  
JOURNAL-WORLD WRITER

A sticker on Jan Exby's porch mailbox says it all:

"THE OWNER OF THIS PROPERTY IS ARMED and prepared to protect life, liberty and property from criminal attack."

"THERE IS NOTHING INSIDE WORTH RISKING YOUR LIFE FOR!"

The message, said Jan and her husband, Jim, isn't meant to offend visitors at their Overland Park home.

Its purpose is deterrence for would-be criminals, the same deterrence which they say would result from a concealed weapons law in Kansas.

"People tend to equate gun control laws with crime control," said Mrs. Exby, who earlier this year formed a Kansas City arm of Safety for Women and Responsible Motherhood (SWARM), Inc.

"Self-protection is not the same as trying to control the gangs in Kansas City, Kan."

SWARM, based in Wheat Ridge, Colo., has about 3,300 members nationwide.

Exby began holding meetings for Kansas City area women and men interested in self-protection about five months ago. Her activism in the group began about a year after she was attacked by a man in a Kansas City suburb.

Although SWARM is not a lobbying organization, individual members have testified or will testify before Kansas Legislative committees that hold hearings on a concealed weapons bill here.

Such a measure was passed by the Kansas House in 1995, but died in the

Senate. It could come up this year, SWARM members say.

## Another 'tool'

About 50 people, including at least three women who live or work in Lawrence, have attended SWARM meetings.

One of them, Suzanne Bateman, is a 41-year-old who works second shift at a Lawrence factory. She often drives home to the small Jefferson County community of Grantville at 1 a.m. on dark, country roads. Grantville is 25 miles northeast of Lawrence.

"I have a phone in the car, and I take all the normal precautions," she said. "But what happens when I'm sitting at a railroad crossing in the middle of nowhere and I'm threatened? By the time the police or sheriff's deputy gets there I could be dead."

Bateman, who has owned guns in the past, doesn't currently have one.

But she wants the right to be able to carry one in her vehicle and purse, legally.

"It's not that we want everyone to carry guns," she said. "It's just I would

See Group, page 3B.

## Continued from page 1B

like to be able to know that I had the right to."

Bateman describes a gun as "just another tool—a tool in preventing an attack."

She and other SWARM members said a gun is the only weapon that can even a woman's chances against a much larger attacker.

Pepper sprays, knives and other weapons aren't effective, they said, because they don't always inflict enough damage to stop an attacker.

With a concealed weapons law, criminals "might just think twice, even for just a second, about attacking someone if they think that person may be carrying a gun," Jan Exby said. "That may be all the time you need to get away."

Currently, it is illegal for anyone, including retired police officers, to carry concealed weapons in Kansas.

But some people are willing to break the law by carrying concealed weapons anyway, SWARM members and police say.

Current law, some argue, prevents people from carrying concealed weapons as a public service and safety issue.

Many, though not all, area law

enforcement officers do not favor a concealed weapons law. They say that most people don't have the proper training or judgment to use weapons (or not use them) wisely.

"Personally, I don't think it's a good idea," said Kansas University police Sgt. Chris Keary.

Scott Hattrup, a SWARM member and attorney in Overland Park who lives in Lawrence, said citizens should have the opportunity to be properly trained.

"The police receive training, why shouldn't law-abiding citizens be able to have training?"

Keary said, "Done by whom, though? If the police department does it and the person does something wrong, the police department is liable."

Douglas County Sheriff Loren Anderson said it's difficult to take sides on a proposed concealed weapons law without a specific proposal.

SWARM members say that the crime rate has gone down in 31 states that have adopted concealed weapons laws.

But Anderson said, "What most of the feeling of law enforcement is, is that there's a lot of weapons out there already and it's disheartening to think that we should have more.

"If they want to carry them,

they can, they just can't conceal them."

Jim Exby described what he sees as a flaw in the law.

"If I'm standing here and I shoot someone who is threatening my life, I am within the law—it's self-defense," he said. "But as soon as I put my gun in my pocket then I am breaking the law."

## Not all or nothing

Some SWARM members concede that provisions in the Brady Law and restrictions on carrying concealed weapons are warranted. For example, they agree that guns should not be brought into certain places, such as schools, courthouses or bars.

"I don't think alcohol and guns mix," said Margaret Kipfer, a firearms instructor and 52-year-old Lawrence housewife.

SWARM members also say background checks for carrying a concealed weapon are prudent, although they point out that most criminals who want a gun can find one illegally.

Ron Dalquest, a 27-year-old Lawrence police veteran who now works for the U.S. Marshall Service in Topeka, said he's all for women protecting themselves.

"What I'm not for is a woman

carrying it into a movie theater to watch a movie, or walking into a bar with it," he said.

But Kipfer and Bateman cited the case of Suzanna Gratia-Hupp, who was a customer in Luby's restaurant in Texas when a man walked in and began shooting. Several people died in the massacre, including Gratia-Hupp's parents.

Gratia-Hupp left the gun she was carrying in her car.

Last week, she was elected to the Texas House, in part, on a pro-gun platform.

Texas has a concealed weapons law.

Dalquest said Kansans lawmakers should use common sense if forming a similar law here.

"When you start writing laws like that, where do you stop?" he said.

"It's hard enough with police officers. You have accidental shootings, accidental discharges," he said.

But gun advocates cite a trend from the opposite direction—an increasing number of laws that infringe on their Second Amendment rights.

"The law is supposed to protect people, it's not supposed to be an impediment to protecting yourself," Hattrup said.

Lawrence  
Journal-World  
Sunday, Nov. 10, '96

# THE OLATHE DAILY NEWS

TIMOTHY P. O'DONNELL, PUBLISHER

SCOTT SMITH, GENERAL MANAGER

CHUCK KURTZ, MANAGING EDITOR

GERALD HAY, NEWS EDITOR

## Packin' heat

### ■ Current information supports the belief that concealed gun laws reduce violent crime

To allow citizens to carry a concealed gun or not to allow them to carry a concealed gun? That is the question expected to be taken up by the Kansas Legislature in its next session, which narrowly defeated a concealed gun bill last session.

This past week, The Olathe Daily News has presented both sides of the concealed gun issue in a series of stories. Follow up stories will be published as warranted, especially when the issue is debated in the Kansas Legislature. This is an issue that will affect everyone in the way we look at each other, and in the way we might possibly defend ourselves or others in certain situations.

The United States Constitution guarantees American citizens the right to own a gun. In Kansas, it is legal to openly carry a gun or rifle.

So why are so many people concerned if the state allows people to carry handguns in their pockets rather than on their hips?

Opponents argue society needs less rather than more guns in public. In a perfect society, there would be no guns available for criminals to use against law abiding citizens. Law enforcement officers and agencies differ in their opinions whether a concealed gun law would be a deterrent or lead to an increase in crime and accidental deaths.

But society is not perfect. Far from it. In the United States criminals are going to get and use guns on decent citizens whether it's legal to carry guns openly or inside a purse or pocket. Thirty-one states across the country have already passed concealed gun laws. The only study done on the issue is one that came out of the University of Chicago. It indicates that violent crime decreases in states where concealed guns are allowed. There were no dramatic increases in accidental deaths. Criminals, instead of confronting people, turned to other forms of crime: burglarizing homes, stealing cars, etc.

When states have concealed gun laws, the playing field between law abiding citizens and criminals becomes even. And criminals appear to not like the odds of facing someone who might be armed.

Representative Kay O'Connor might have said it best during The Daily News' series when she said, "If I have a guy with a gun in my back, I don't have the time to dial 911. He may not know I have a concealed weapon, and it may still only be a 50/50 chance, but give me 50/50."

The issue needs to be discussed thoroughly by our representatives. But we think, based on current data there can be only one conclusion: A concealed gun law in Kansas would be in the best interest of the state's law abiding citizens. And if passed in the legislature, we urge Gov. Bill Graves to sign the bill into law.

**580 RADIO**  
**WIBW**  
NEWS • TALK • SPORTS

**CORPORATE-THINK & CONCEALED WEAPONS**

*Al Lobeck, General Manager  
Aired 1/11-13/97*

The issue of concealed weapons in the state of Kansas is bound to be a major issue in the upcoming Legislative session. At least, the daily Topeka paper certainly believes it will be. Twice within the last month - first, on December 16th, and then again on January 5th, they have addressed their lead editorial to that subject. The paper is opposed to the passage of a "right to carry" law in Kansas. Since that paper and this radio station are owned by the same company, you might expect us to agree with their stand on this important issue. You would expect our acquiescence in error.

The paper notes that, according to polls they believe, a majority of Americans do not favor "right to carry" laws. The paper does not note that 30 states have enacted "right to carry" laws. That's up from only seven states just a decade ago. For such an unpopular law, it is certainly passing in other states!

The paper states that guns are not a solution to crime. Well, it's hard to disagree. No one, single law that you could name is THE solution to crime. What the paper does not state is that, when you compare rates of crime in states that trust their citizens against the states that refuse to grant the right of self-protection to its people, the crime rates are lower in those states where the "right to carry" laws have passed. No, "right to carry" laws are not THE solution to crime. However, those laws have been shown to reduce crime - which we don't believe to be a bad thing.

Florida enacted a "right to carry" law in 1987. One Florida newspaper, editorializing against the enactment, opined: "[A] pistol-packing citizenry will mean itchier trigger-fingers....South Florida's climate of smoldering fear would flash like napalm when every stranger totes a piece, and every mental snap in traffic could lead to the crack of gunfire." What has happened since 1987 in Florida? The state's firearm homicide rate has decreased 34%, compared to a nationwide increase of 28%. Florida's handgun homicide rate has decreased 38%, while the nationwide rate has risen 43%.

The paper claims that Americans do not subscribe to the National Rifle Association's interpretation of the Second Amendment to the U.S. Constitution. That's fine. The N.R.A. isn't the point, nor is Handgun Control, Inc., for that matter. The point is the Second Amendment, and what it was meant to be. Forget the N.R.A. - but listen to the minds that conceived this country.

Samuel Adams: "The...Constitution [shall] be never construed to authorize Congress to infringe the just liberty of the press, or the rights of conscience; or to prevent the people of the United States, who are peaceable citizens, from keeping their own arms."

Again, forget the N.R.A. - they could disappear tomorrow, but our nation's Founders still said these things.

George Mason: "[W]hen the resolution of enslaving America was formed in Great Britain, the British Parliament was advised by an artful man, who was governor of Pennsylvania, to disarm the people; that it was the best and most effectual way to enslave them; but that they should not do it openly, but weaken them, and let them sink gradually."

This is not some "gun-nut", afraid that any gun law would be the start of more and more restrictive laws. This is one of the Founders of our country.

Thomas Jefferson wrote, "Laws that forbid the carrying of arms...disarm only those who are neither inclined nor determined to commit crimes...Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man."

We don't subscribe to the N.R.A.'s interpretation of the Second Amendment. We subscribe to what our nation's Founders meant when they wrote the Bill of Rights.

Yes, the daily Topeka paper and AM580 WIBW are owned by the same people. Some of you probably thought, "Oh, boy - the monolithic corporate voice will drone a single note." Well, we don't disagree on every issue, but we will certainly speak out when the paper takes what we believe to be the wrong stance - as they have on this issue.

FINAL EDITION 50¢

For agoraphobics, performing day-to-day activities can be excruciating

Health & Environment Page 1-B

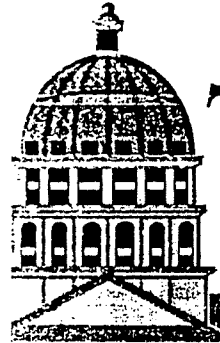


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# THE TOPEKA CAPITAL JOURNAL

## MONDAY

FEBRUARY 20, 1996

### Concealed weapons enable honest citizens to protect themselves

When a television "news magazine" program visited juvenile detention facilities in south Florida a while back to find out why violent juvenile gangs targeted foreign tourists for attack, the response was that they knew the tourists didn't have guns.

The young inmates explained since Florida allows law-abiding citizens to carry concealed weapons, they avoid Florida natives fearing those intended victims might be armed.

Exactly. And that's just the message that any state sends in the 1990s whenever it passes a law requiring issuance of concealed-carry weapons permits to citizens of good repute.

At hearings on just such a bill before the Legislature's Federal and State Affairs Committee last week, an opponent claimed its passage would send Kansas young people the message that "we have become a frightened society with a vigilante mentality."

Not so. The real message is: "We aren't helpless victims any longer. Threaten us at

your peril."

Perhaps the most notorious incident was the one that took place at a crowded Luby's Restaurant in Texas several years ago, where a crazed gunman killed 17 innocent cus-



Gene Smith

tomers. Among those customers was Dr. Susanna Gracia, who was authorized to carry a gun, but had left her revolver in the car in obedience to Texas law as it was then. Had she been armed, at least some of those victims likely would be alive today — her parents among them.

Texans have changed their laws to permit concealed carry.

There are always times in any human society when an armed response

is appropriate. We should be glad there are those among us willing to provide it.

Those who would deny the right of self-defense to themselves and — worse — to their neighbors are fond of predicting that in an armed society, blood will flow in the streets. Experience suggests the opposite: An armed society is a good deal more peaceable than one inhabited by packs of predators and herds of the helpless.

Certainly anyone who carries (or picks up) a weapon — gun, knife, ball bat, whatever — carries a heavy responsibility along with the weapon. Certainly he or she must be prepared and adequately trained not only to use the weapon but also know when to use it. Or when not to use it. In fact, most often the mere display of a weapon prevents crimes — to the tune of 2 million such incidents a year, according to one of the United States' leading researchers in the field.

Doubtless that's why most rank-and-file law officers approve of an armed law-abiding citizenry, though the brass who run departments sometimes don't because they know that as long as crime is rising, the enforcement business will too. Bigger empires mean

bigger budgets, higher salaries, more rank, more power. Bureaucrats are seldom interested in working themselves out of a job, but the troops at the sharp end often have a different point of view. That seems to be the case now in Kansas.

"It seems violent crime has decreased" in the 28 carry states, Shawnee County Sheriff Dave Meneley said last week. "I think it's a deterrent" to street criminals if they don't know who's armed and who's not. "There just haven't been any bad instances. We really don't have anything to fear from a law-abiding citizen carrying a gun, and the criminals are already carrying them. I think it's arrogance on our part to say to citizens, 'We appreciate your giving us the right to protect ourselves, but we don't think you should have the same right.'"

Meneley added he had surveyed the personnel of his own department and found most share his opinion — along with most street cops. He was among a large group of lawmen who expressed similar viewpoints to the legislative committee.

That isn't surprising.

Indeed, self-defense is a fundamental right — a God-given right, if you will, not even open to question and certainly not granted or withheld at the whim of any government. Nor should it be. But it is sadly true that the United States often seems to operate on the simple premise that every citizen is free to tell his neighbor how to live — and he does. Too often, such advice isn't only out of line but wrong to boot.

In any adult society the issue of self-defense, like those of religion, abortion, sexual orientation and politics, should be off limits to politicians, bureaucrats, law officers. To governments, in other words. None of those issues ever should be of concern to a neighbor as long as they don't adversely affect his or her life.

It is said sometimes that a liberal is just a conservative who hasn't been mugged. Perhaps that is their problem. Or perhaps they simply don't have enough legitimate business of their own to keep them busy.

Maybe they need to take up picketing, too.

18-11

## Gun permit law hasn't raised crime

State: Permit-holders unlikely to be arrested

By TED BYRD  
Staff Reporter

RICHMOND—When Virginia loosened the criteria for issuing concealed-weapons permits last July, opponents predicted more accidental shootings, traffic accidents escalating into shootouts and a general increase in violence.

But Virginia appears to be following the footsteps of other states that have made it easier for residents to carry weapons: Some permit-holders may get into trouble, but almost none get into trouble with their guns.

"Virginia has not turned into Dodge City," Public Safety Secretary Jerry Kilgore said. "We have not seen a problem."

No high-profile cases have arisen in which a legally concealed weapon was involved in a crime. Only four people with permits were arrested between July and November 1995, none for crimes that involved a gun, according to state police records.

The charges are assault, aggravated sexual battery, domestic assault and growing marijuana. During that same period, 17,709 new permits were issued.

Those statistics bolster members of the General Assembly as they prepare to turn back efforts to revoke last year's changes, which took effect in July. There are some 27 bills on concealed weapons pending in the General Assembly. Those aimed at revoking the changes are likely to die in committees this weekend or early next week.

The findings that few people with concealed-weapons permits commit crimes is exactly what proponents said would happen, based on other states' experience.

Florida has been the most closely watched state since it relaxed its concealed-weapons law in 1987. Officials there tracked crimes to measure the change's effect.

"They quit the study after five years because the number was so negligible," said Denise Griffin, a analyst for the National Conference of State Legislatures, a nonpartisan study group that doesn't advocate policy.

Of more than 324,000 permits issued in Florida since 1987, only 57 were revoked because of crimes that involved a gun. Just as in Virginia, that's about .02 percent.

The almost nonexistent crime rate doesn't surprise Fredericksburg-area officials. The area has led the state in the number of permits issued, with no apparent crime problems.

"Up until last year, there was not a single case where someone with a permit had a serious

## Permits from page A1

violation of the law," said Sen. Edd Houck, a Spotsylvania County Democrat who supported loosening the permit law. "This just mirrors what we already knew in Spotsylvania."

Circuit Court judges, who grant the permits, now must offer a reason for rejection, such as a former police record. Previously, applicants had to show cause for needing a permit.

Concealed-weapons permits are good for two years and allow people to carry a weapon concealed on their body or in their car. The permits are not required to keep weapons at home.

The state police haven't compiled rejection rates, but localities report that most applications are approved.

Another element in the concealed-weapons debate has been overall crime rates. Proponents of easing the permit process argued that more people carrying guns would make criminals less likely to commit violent crimes. Opponents predicted the opposite: More people would pull guns during a crime, and injuries would increase.

Florida was watched closely because of its size and its urban centers.

"It's one thing to have an open policy in Montana, and another in metro Dade [County, Fla.]," said Griffin, who is based in Denver and has specialized in concealed-weapons permit laws.

Florida officials were getting so many media calls last year asking about a connection to crime rates that a Department of Law Enforcement memo was written to Gov. Lawton Chiles to explain the agency's responses.

"No formula exists which is capable of establishing a link between the existence of Florida's Concealed Weapons Program to any increases or decreases in crime in the state," according to the memo.

Conclusions are difficult to draw

in Virginia as well.

"The arguments on both sides have turned out wrong," said Del. John J. "Butch" Davies, a Culpeper Democrat who supported making permits easier to get.

State police records show violent crime rates in Virginia have oscillated month-to-month since the permit change. Between July and November 1995, murders involving firearms decreased from 183 to 155, compared with the same period of 1994. Aggravated assaults using weapons also decreased, from 951 in '94 to 892 in '95. On the other hand, robberies committed with guns increased from 1,605 to 1,721.

The state police system for monitoring criminal cases involving defendants with concealed-weapons permits appears to be working, at least for violent crimes. It's designed to make sure that people who are convicted of crimes lose their permits.

Crimes are logged onto a state-wide computer system, which is also used as a database for the state's instant background check for people seeking to buy weapons.

That file is cross-referenced with one holding the names of permit recipients, which is filed by courts around the state.

State officials say not enough time has passed to measure long-term trends, but they remain confident that making it easier for people to carry concealed weapons won't increase crime.

Some law enforcement officials are still skeptical.

"What's the first thing you do in an argument—you reach for your gun," said Jim Shelhorse, a spokesman for the Fredericksburg Police Department. "That's our concern. The more that are out there, the more chance of something happening."

None of that moves proponents of the new concealed-weapons policy.

"Just ordinary Joe Citizen is getting them," Davies said. "I think the system seems to be working, and working well."



18-12

# State & Local

SECTION  
Sunday  
December 29, 1996

**B**

**"It may be this issue is more of a symbol."**

Collins Kilburn, N.C. Council of Churches

## All's Quiet



AP PHOTO

Opponents and supporters of the concealed-weapons law say that it probably has not changed things very much.

### Concealed-weapons law hasn't led to mayhem

By Erica Beshears  
JOURNAL REPORTER

Hugh Adams teaches gun safety to an average of one person a day who wants to obtain a concealed-weapons permit.

But at this time last year, Calibers Indoor Gun Range in Greensboro was bursting with people taking Adams' safety course.

The decline in interest in his course mirrors what gun ranges and law-enforcement agencies across the state have seen since North Carolina's concealed-weapon law took effect Dec. 1, 1995.

Through Dec. 17, 20,802 permits had been issued statewide, fewer than anticipated by many sheriffs. Assistant Sheriff Allen Gentry of Forsyth County said that the limits that are part of the concealed-weapon law have a lot to do with that.

"North Carolina law has serious restrictions on what you can do with a gun," Gentry said. "I think a lot of people that may have been interested in the permit might have had a second thought."

The law makes it legal for residents who have no criminal record and have taken a certified gun-safety course to

get a permit to carry a concealed weapon on their body or in their car.

Each person pays about \$90 and applies at the county sheriff's department.

Critics of the law said it would lead to an increase in gun crimes and accidental shootings.

Supporters said that the law would discourage criminals from attacking people because more people would be able to defend themselves.

Sheriffs in Forsyth and surrounding counties said that crime rates and acci-

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18-13

# WEAPONS

Continued From Page B1

dental shootings apparently haven't been affected.

Sheriff Ron Barker of Forsyth County said that the crime rate in the county had not been affected by people carrying concealed weapons.

"Crime is about the same," he said. "We still have houses being broken into, robberies and purse snatchings."

Sheriff B.J. Barnes of Guilford County said: "We've had no problems at all. We've not had the shootings in the street."

Collins Kilburn of the anti-handgun N.C. Council of Churches conceded that the debate over the law was more eventful than the law has been.

"It may be this issue is more of a symbol," Kilburn said. "The substance of it may not turn out to make a great deal of difference." Barker hired five clerical workers to handle the initial rush of applications for permits, he said. As the rush subsided, Barker said, he reassigned the clerical workers to other duties, such as working in the department's radio center.

Two people now handle the permits, he said.

Many North Carolina sheriffs said last December that they expected to be overwhelmed by the number of permit applicants after a poll showed that 10 to 14 percent of adults said they would apply.

Barnes said that the National Sheriff's Association had said to expect about 1 percent of the population to apply for a permit.

Barker said he expected 1 to 2 percent of the county's more than 265,900 residents — as many as 5,300 people — to apply for a permit. Since the law was enacted, the sheriff's department has issued fewer than 1,000 permits.

Virginia, which enacted a similar law in July 1995, has issued 44,000 concealed-weapon permits. Florida, after nine years with that law on the books, has issued 194,620 permits.

In North Carolina, however, the cost of the permits and training requirements may have been a deterrent.

Barnes said he thinks that the high fee for the permit and unfavorable media attention kept many people from applying. Barker agreed and said that some people may not have had time to take the training classes.

Barker said that the restrictions on where concealed weapons can be carried also may discourage people. The law prohibits people from carrying a weapon into courthouses, schools and other government buildings, and businesses are allowed to ban weapons.

"About the only place they can carry them is in their cars," Barker said. "Because of these restrictions, many people simply felt it wasn't worthwhile to apply."

## Positive side of new law

Although the law has not changed the crime rate, it has had a positive effect because many more people now understand state gun laws and can handle a gun safely, said Adams, who is a member of the group Grassroots North Carolina, which lobbied for the law for several years.

## By the Numbers

Through Dec. 17, nearly 21,000 permits to carry a concealed weapon had been issued statewide. In Northwest North Carolina, the most permits were issued in Guilford and Forsyth counties and the least in Alleghany County.

County	Issued	Denied
Alleghany	6	0
Ashe	38	0
Davidson	511	0
Davie	98	2
Forsyth	858	4
Guilford	864	6
Stokes	119	7
Surry	134	1
Watauga	143	2
Wilkes	244	0
Yadkin	166	0
<b>State</b>	<b>20,802</b>	<b>222</b>

Source: N.C. Division of Criminal Information

Arms in Greensboro, agreed. "The reason is not to carry them on their body, but in their car. Before, you had to keep it on the dashboard."

Barnes and others also question whether the law actually has not reduced crime by discouraging criminals from attacking people who might be carrying a concealed weapon. Barnes said that though he had no statistics to back it up, criminals have told him that they now are less likely to try to hold someone up.

"They're concerned because they don't know who's got a gun," he said. "Why take the chance?"

Sheriff Jack Henderson of Yadkin County agreed. "I think it has been a definite deterrent," he said.

Capt. M. Byrd of the Davidson County Sheriff's Department said, "We haven't seen reports of people having their pocketbooks pulled away like you'd normally see."

The effects of concealed-weapon laws on crime rates are unclear.

A study by researchers at the University of Chicago released in July concluded that 1,570 lives would have been saved if every state allowed its residents to carry concealed guns. Criminals in states that have such laws turn to property crimes, the study said, rather than risk encountering armed victims.

But other academics dispute that study, particularly at the Johns Hopkins Center for Gun Policy and Research. Last month, the center released a detailed challenge calling the Chicago study deeply flawed and wrong.

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■ Journal reporter John Hinton and The Associated Press contributed to this report.

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## No charges planned in shooting

By MARK SHAVER  
Staff Writer

STAUNTON — Staunton Commonwealth's Attorney Raymond C. Robertson said Monday he was placing no charges against those involved in an early morning assault on Feb. 24 here, despite the fact that one man was shot and another man was beaten.

In a scheduled press conference, Robertson said that the man who was shot, Dwight D. Bryant, 22, of 1710 Ivy St., Apt. 135, did attack a Staunton man that Saturday night, but to charge him with the crime would be "overkill."

"This was just a judgment call I have made," Robertson said from his office. "(Bryant) is in the hospital fighting for his life. As far as charging

him, we feel that that would be overkill in this case. We think he has suffered enough."

The man who shot Bryant, a Stauntonian whose name wasn't released, acted in self defense, Robertson said, and also wasn't charged.

"He was attacked and he defended himself," Robertson said. "He had a permit to carry a concealed weapon. He has done no wrong."

The shooting occurred at 1:48 a.m. at the parking lot of Valley Oil Change at 638 Greenville Ave. While the man who did the shooting was walking home, he was approached and attacked by Bryant, who was with two other men, Robertson said. After Bryant assaulted the man several times, the man crouched down, withdrew a .45-

caliber automatic pistol from a holster, and fired 8 shots, three of which struck Bryant, he added.

"He fired to rid himself of the attackers," Robertson said. "It was a three-on-one in the dead of night. There's no way you can fend off three people with your fists. People do have a right to defend themselves."

According to Robertson, the shooter was an upstanding citizen who had no prior record.

"He's never been charged with anything in his life," Robertson said. "He has children and a full-time job."

Bryant, who remains in serious condition at University of Virginia Medical Center, and the two men who accompanied him, Dennis Pippin, 22, of Waynesboro, and Kevin L.

Lotts, 21, of Staunton, were all convicted felons who had a number of assaultive behavior records, Robertson said.

"All were convicted felons and all had been drinking," Robertson said. "It looked like they were up to no good."

Pippin and Lotts weren't charged, Robertson said, because they did not assault the man.

"One of them hadn't quite gotten to the scene, and the other man didn't assault him," he said.

According to Robertson, Bryant was involved in two other scuffles the same day in Waynesboro before the three drove to Staunton that evening.

"The Bryant boy had been in an altercation at Lynn's Pancake House, and at the C-Mart in Way-

nesboro where he had a confrontation with a girl," Robertson said.

Bryant was struck once in the abdomen and twice in the back, Robertson said. The other six bullets harmlessly struck the Valley Oil Change building, trees, and an ice machine next to the Etna gas station, he said.

"The person who fired backed into the street as he unloaded his gun," Robertson said.

The identity of the shooter wasn't released in order to protect him, Robertson said.

"There's no reason to put pressure on or impose retribution on this man," he said.

The motive for the attack was unknown, Robertson said.

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15



## TEXAS & SOUTHWEST

# Gun law's record impresses official

By Bruce Tomaso

Houston Bureau of The Dallas Morning News

HOUSTON— The new concealed-handgun law has triggered no discernible rise in gun-related violence despite less-than-thorough background checks on license applicants, the state's top police official said Monday.

"So far, it has impressed me how remarkably responsible the permit holders have been," said Col. James Wilson, director of the Texas Department of Public Safety, which conducts the background checks. Since Texans began lawfully arming themselves Jan. 1, two permit holders have fatally shot other people, Col. Wilson told a legislative panel meeting in Houston.

In one case — that of a Grand Prairie man who got into a fight with another motorist after an accident on Mockingbird Lane near Interstate 358 — grand jurors returned no indictment. The other case, involving an argument last month in Houston over tools at a auto repair shop, is pending before a Harris County grand jury.

In addition, Col. Wilson said, there have been two suicides by licensed gun owners.

In all, 11 people have been arrested carrying licensed weapons — "a surprisingly low number," the DPS

chief said, considering that almost 67,000 licenses have been granted.

A total of 51 shots have been fired from lawfully carried handguns — 40 of them, Col. Wilson said, by one individual "who I believe was killing a tree in a public park."

The colonel was one of more than a dozen witnesses to address members of the Senate Committee on Criminal Justice, led by Sen. John Whitmire, D-Houston. The committee is charged with evaluating the handgun law between legislative sessions and recommending possible changes for consideration in 1997.

Top officials of the Houston Police Department, the Harris County sheriff's office, the Harris County district attorney's office and the Houston Independent School District police force echoed Col. Wilson's assessment that the arming of so many thousands of people has not contributed to gun-related violence.

"I am absolutely shocked at how well licensees have behaved themselves," said Harris County District Attorney John B. Holmes, an early opponent of the concealed-weapon measure.

Backers of the law pointed to the statistics as proof that the measure is working as intended — enabling

law-abiding citizens to protect themselves without escalating street violence.

"This law does not cause the problems that those who are opposed to it claim that it does," said Sen. Mike Galloway, R-The Woodlands.

Gun-control advocates, however, said it's only a matter of time.

"Common sense tells you that putting more guns on the street, putting more guns in the hands of more people, leads to more gun violence," said Joyce Strickland of Dallas, executive director of Mothers Against Teen Violence.

Ms. Strickland's 19-year-old son, Charles Christopher Lewis, a Morehouse College student and a St. Mark's School graduate, was killed with a friend during a holdup in Rochester Park three years ago.

Instead of worrying about fine-tuning the law governing legally carried weapons, she said, lawmakers should be working to eliminate the arsenals of illegal weapons already on the street.

The committee won't issue its formal report until later in the year, and took no position on any suggested changes Monday.

However, several lawmakers expressed concern about Col. Wilson's assertions that DPS troopers are

able to do only minimal background checks on applicants — particularly, into their mental-health history.

The law says that to get a handgun license, an applicant, among other qualifications, must not have a felony record and must not be "a person of unsound mind."

However, because of medical-confidentiality concerns and a large backlog of permit applications, troopers largely rely on what people put down regarding their mental health and any past treatment for mental disorders, he said.

He said that the DPS has been snowed under with applications and that the backlog in processing those applications has at times exceeded 90 days.

Originally, the comptroller's office estimated there would be 76,632 applications in the first year. But that number was exceeded in just over eight months, Col. Wilson said.

Under the law, qualified adults could carry concealed handguns beginning Jan. 1, but the DPS started taking applications three months earlier, on Sept. 1, 1995.

To date, 83,000 applications have been received. By Sept. 1, Col. Wilson predicted, as many as 120,000 Texans will have applied for the licenses.

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## CITY FINAL

IN SPORTS: Greer homers as Rangers beat Angels, 6-2 ...PAGE 1D

# Fort Worth Star-Telegram

WN

WEDNESDAY, JULY 17, 1996

Tarrant County, Texas ★ "Where The West Begins"

50 CENTS

## Gun-law fears are unfounded, Tarrant County sheriff says

BY JOHN GONZALEZ  
Star-Telegram Austin Bureau

AUSTIN — Those who predicted that mayhem would be the result of Texans carrying concealed handguns have been proven wrong, Tarrant County Sheriff David Williams told lawmakers yesterday.

Law enforcement agencies have seen few problems associated with concealed handgun permits during the more than six months they have been available. Williams and other officers told members of the House Public Safety Committee.

"As we had seen in other states and had predicted would occur in Texas, all the fears of the naysayers have not come to fruition," Williams said.

Texas Department of Public Safety officials testified that out of 23 reported incidents in which permit holders fired shots, 15 licensees were arrested and charged with 19 offenses, ranging from murder to technical violations.

Since permits became valid Jan. 1, there have been at least two homicides, two suicides and three woundings involving permit holders. At least 67 shots have been fired, said DPS Lt. Col. Dudley Thomas. But a target shooter in a Garland park harmlessly squeezed off 40 of them.

was ruled justifiable by a grand jury, and a fatal shooting in Houston remains under investigation, officials said.

Of the three woundings recorded, two occurred in homes and a third in a business. Although permit holders were involved, home and business owners are not required to have a concealed-carry permit to possess a gun at their home or business.

As a result of the 40 shots fired Feb. 11 in a Garland park, a 57-year-old target shooter's two pistols were confiscated and his permit will be revoked for shooting inside a city, Thomas said.

In Chambers County, nine shots were fired at tin cans in a municipality, resulting in another special police report to DPS as required by the gun law.

Williams said, "A lot of the critics argued that the law-abiding citizens couldn't be trusted, nor were they responsible enough to avoid shooting a stranger over a minor traffic dispute. But the facts do speak for themselves. None of

these horror stories have materialized."

Officials said that with more than 82,000 permits in circulation, gunplay has been minimal. However, the law's positive effect on public safety is impossible to measure.

Thomas said the DPS issued 338 licenses a day last month. He added that snafus in the application process have been reduced, but that some requests still get hung up on legal questions. Nearly 500 applications have been denied for two common reasons: criminal convictions and deferred adjudications in the applicants' past, or delinquent taxes, Thomas said.

Reps. Bill Carter, R-Fort Worth, and Ray Allen, R-Grand Prairie, who serve on a subcommittee overseeing the new law, said they are well aware of complaints about the application process, especially during start-up.

They plan to submit several technical changes to the law in 1997 and may seek to clarify the list of places where guns may and may not be carried.

"There will be some modifications," Carter said. "We need to settle the constitutional issue that it's the place of the Legislature, and the Legislature alone, to decide where guns can be carried."

# The Washington Times

WASHINGTON, D.C., WEDNESDAY, AUGUST 14, 1996 \*\*

## Armed and safer

Gordon Hale had no idea that a minor traffic problem would turn into a life-threatening situation. But after his side-view mirror bumped that of another car earlier this year, the other driver came over and began pummeling him through the open window as his car sat trapped in traffic. Fearing for his life, Mr. Hale pleaded with his assailant to stop, then reached for a gun and fired once at the attacker, killing him.

A Texas grand jury declined to indict Mr. Hale, and law-enforcement officials said they would not quarrel with the ruling. He "couldn't get out of his vehicle," said an assistant district attorney. "He had his seat belt on. And the deceased was holding him. He was being beaten at the time, and he was in fear for his life or of serious bodily injury."

A study scheduled for publication in a peer-reviewed legal journal reports that Gordon Hale isn't the only one to benefit from right-to-carry laws that allow qualified persons to carry concealed weapons. John Lott of the University of Chicago's School of Law and David Mustard of the university's department of economics report that there is more than just anecdotal evidence to suggest that concealed-weapons laws deter violent crime.

Existing research already hinted at the deterrent effect. Almost half the burglaries in gun-control countries like Canada and Britain are "hot," meaning residents are at home when criminals strike. In this country, where controls aren't so strict, hot burglaries constitute just 13 percent of such crimes. The obvious implication, confirmed in interviews with felony prisoners, is that would-be criminals had greater fears of running into armed victims here than in other countries.

Researchers Lott and Mustard hypothesized a similar effect from concealed-carry laws and began what is certainly the most comprehensive review of the subject yet. It covered county-level crime data for the entire United States from 1977 to 1992 to determine the impact of laws requiring the issuance of a right-to-carry permit (unless the applicant has a criminal record or a history of significant mental illness). Their findings (which, according to University of Chicago officials, are available at the internet address <http://www.lib.uchicago.edu/~llou/guns.html>) are instructive:

■ "We find that allowing citizens to carry concealed weapons deters violent crimes, and it appears to produce no increase in accidental deaths.

■ "If those states which did not have right-to-carry concealed gun provisions (28 do now) had adopted them in 1992, approximately 1,570 murders; 4,177 rapes; and over 60,000 aggravated assaults would have been avoided yearly.

■ "On the other hand, consistent with the notion of criminals responding to incentives, we find criminals substituting into property crimes involving stealth and where the probabilities of contact between the criminal and the victim are minimal."

■ "Concealed handguns also have their greatest deterrent effect in the highest crime counties." In high-crime counties, right-to-carry laws reduced the murder rate by an average 10 percent and the rape rate by an average of more than 7 percent.

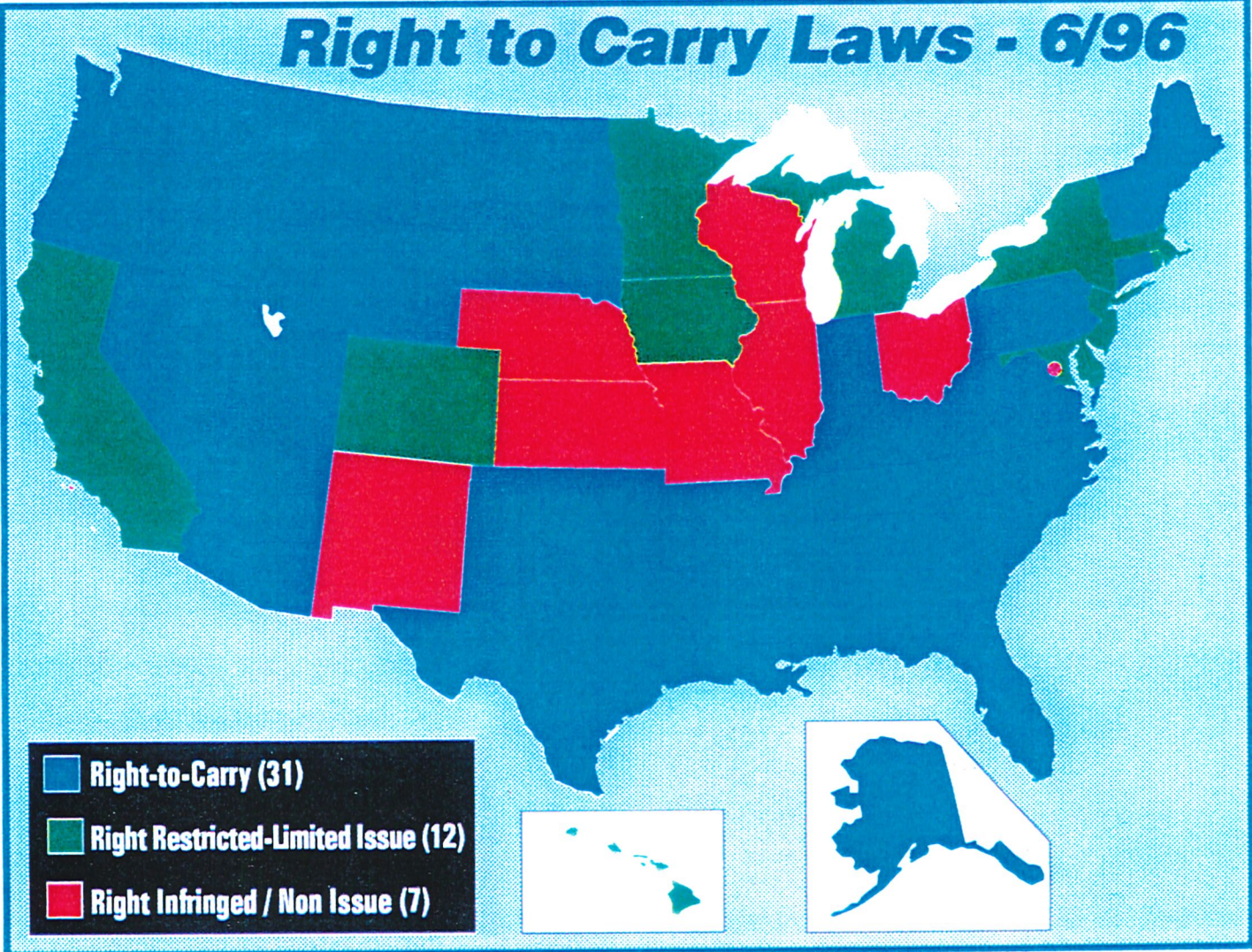
■ "The estimated annual gain from allowing concealed handguns is at least \$6.214 billion."

Ironically, even gun-controllers may benefit from concealed-carry laws. "By the very nature of these guns being concealed," the two men write, "criminals are unable to tell whether the victim is armed before they strike, thus raising criminals' expected costs for committing many types of crimes."

Reaction to the study has been bewildering, even to someone like Mr. Lott, who has published some 70 papers in peer-reviewed journals. Gun-control proponents, fearful of the publicity it would generate, initially refused to read the paper, much less to send a detailed critique. It took him 23 phone calls to find someone, in this case Georgetown University professor Jenn Ludwig, to comment critically on the study at a Cato Institute forum last week. Some gun-control groups subsequently attacked Mr. Lott's motivations for conducting the study rather than challenging it on the merits, a tactic which Mr. Ludwig himself disputed. Finally, and more ominously, Mr. Lott says he has received death threats as well as veiled threats against the safety of his children.

Notwithstanding the fact that right-to-carry laws can be a matter of life and death, there ought to be room for reasonable people to disagree about the related academic research. Critics should keep in mind that the more they stray from the substance of his study, the more bankrupt their arguments appear.

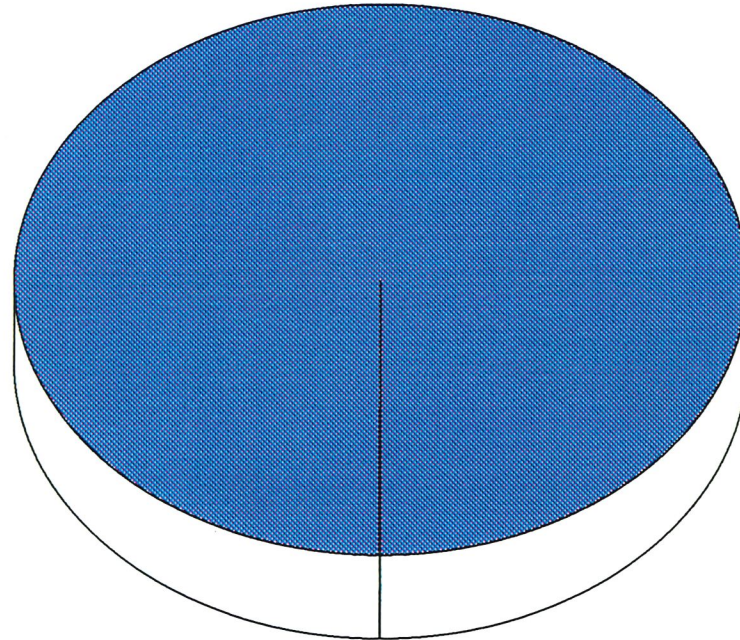
# Right to Carry Laws - 6/96



18.8  
6)

# Virginia's Right-to-Carry

48,722 permits issued . . .



. . . 22 revoked for ANY reason  
(0.045%)

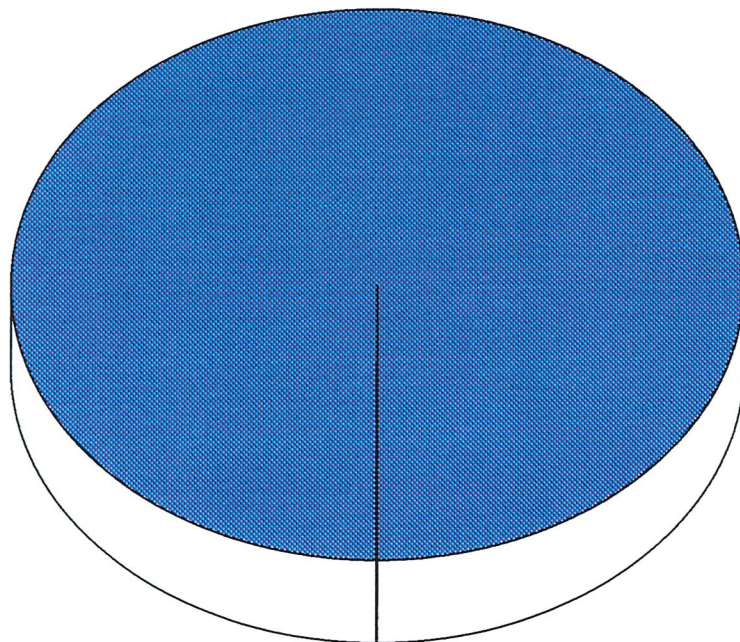
Virginia State Police (12/31/96)

Law's Effective Date: July 1, 1995

18-81

# Oklahoma's Right-to-Carry

15,081 permits issued . . .



. . . 11 revoked or suspended for ANY reason  
(0.07%)

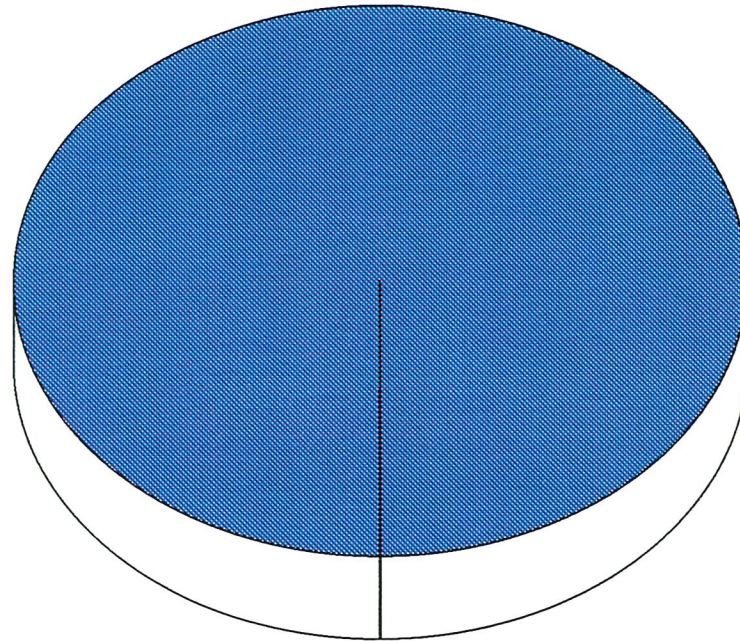
Oklahoma State Bureau of Investigation (1/29/97)

Law's Effective Date: January 1, 1996

18-21

# South Carolina's Right-to-Carry

1,920 permits issued . . .



. . . only 1 revoked for ANY reason  
(0.05%)

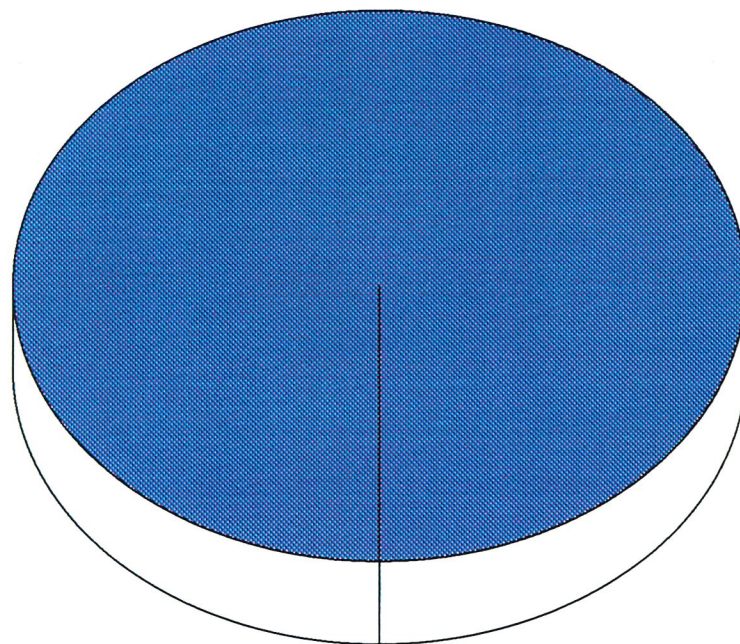
South Carolina State Law Enforcement Division (1/30/97)

Law's Effective Date: July 1, 1996

18-8  
28

# Florida's Right-to-Carry

383,452 licenses issued . . .



. . . only 72 revoked due to firearm crimes  
by license holders (0.019%)

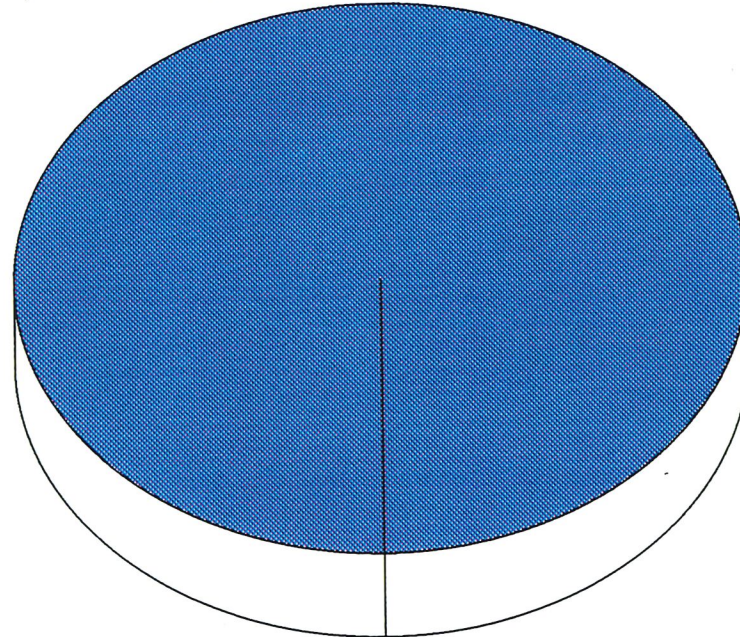
Florida Department of State, Division of Licensing (12/8/97)

Law's Effective Date: October 1, 1987



# Texas' Right-to-Carry

112,992 permits issued . . .



. . . 17 revoked for ANY reason  
(0.015%)

Texas Department of Public Safety -- through Dec. 10, 1996

Law's Effective Date: January 1, 1996

18  
24

February 11, 1997

The Honorable Garry Boston  
Chairman, House Federal & State Affairs Committee  
State Capitol, Room 156-E  
Topeka, KS 66612

Dear Representative Boston:

We, the undersigned Chambers of Commerce, oppose permitting persons, other than those allowed under current law, to carry concealed firearms. Accordingly, **we oppose HB 2159 and respectfully ask you and the members of the House Federal & State Affairs Committee to vote against it.**

**A bill allowing citizens to carry concealed handguns may involve businesses and business-property owners in costly litigation.** Even if employers may ban concealed handguns from their premises, those policies may not be enough to defeat handgun-related liability claims (see attached *Wall Street Journal* article). Potential claims could test these questions:

- If a business prohibits concealed handguns on its premises, will it be liable for an incident involving a licensed concealed handgun owner if the business has not taken reasonable steps to enforce its ban?
- What is the liability of a company that bans concealed weapons on its premises, if an incident occurs that may have been prevented by the intervention of a person licensed to carry a concealed handgun? (Recall the Luby's massacre in Texas where a lone gunman killed two dozen people. One survivor said more people would have lived if she had not left her gun in her car.)
- What is the liability of a company that permits concealed weapons on its premises if a licensed gun owner injures or kills someone while on its premises?

Additionally, HB 2159 does not include a provision saying employers are not prohibited from banning concealed weapons on their premises. The attached *Wall Street Journal* article says the National Rifle Association and other proponents of concealed handgun legislation do not believe businesses have the right to deny citizens their legal right to self-defense and they anticipate legal challenges to policies banning concealed handguns.

**It will be expensive and impractical for businesses to enforce policies that prohibit concealed handguns on business premises.** Few businesses will accept the cost, intrusion and disruption of metal detectors, handbag searches and other measures necessary to enforce such a ban. While it makes good business sense to keep handguns off the premises, it does not make good sense to run a business like a police state.

**Concealed weapons may escalate the incidence of workplace violence in Kansas, already the second leading cause of occupational deaths in the nation.** Although employers may be able to ban employees from bringing handguns to work, even without a specific provision in HB 2159 granting them this right, questions exist about the feasibility of

-over-

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enforcing such a ban. A heated argument or confrontation at work could escalate into a shoot-out if guns are easily accessible.

**Proliferation of concealed handguns in Kansas threatens our communities' quality of life, a key ingredient to economic vitality.** Businesses will not locate or remain in areas where their employees and customers feel unsafe. Proponents of concealed handguns often cite statistics from Florida showing that the handgun homicide rate there has dropped 30 percent since Florida legalized concealed handguns in 1987. As the attached chart shows, however, handgun murders escalated dramatically in Florida after 1987, and decreased only after the passage of gun control laws. Florida's imposition of background checks for all firearms purchasers and a three-day waiting period for all handgun purchases were, in our opinion, the key factors leading to a drop in handgun murders in the state. Based on Florida's experience, concealed weapons will not make Kansas communities safer and in fact may have the opposite effect.

**Public opinion polls and surveys of chamber members consistently show 70-85% of Kansans oppose concealed handguns** (see attachments). While these polls favor our position, we are not enthusiastic about waging an expensive statewide campaign against a well-financed gun lobby. At this point, therefore, we are asking the Legislature to keep in mind the persuasive policy arguments against concealed handguns, as well as strong public opposition, when it takes up HB 2159 and similar legislation.

Thank you for considering our position.

Emporia Chamber of Commerce  
Greater Kansas City Chamber of Commerce  
Lawrence Chamber of Commerce  
Lenexa Chamber of Commerce  
Mission Area Chamber of Commerce  
Overland Park Chamber of Commerce  
Topeka Chamber of Commerce

Attachments:            *Wall Street Journal*, 3-5-96, Page B-1  
                                 Florida: Murder With Handguns  
                                 Public Opinion and Chamber of Commerce Surveys

19-2

# MARKETPLACE

Advertising: True North-Publicis rift  
spotlights perils of global unions Page B12.

Media: Times Mirror offering 'Peps'  
to secure its gain on Netscape stake Page B12.

## Concealed-Gun Laws Give Businesses the Jitters

By ANDREA GERLIN

Staff Reporter of THE WALL STREET JOURNAL

When Oklahoma's new law allowing citizens to carry concealed handguns took effect Jan. 1, officials at Foodbrands America Inc. took notice. "It scared the hell out of

### LEGAL BEAT

us," says John Chapman, director of human resources.

Facing the prospect that employees could secretly bring handguns to work, the Oklahoma City-based food-processing company let its 5,300 workers know that weapons aren't allowed on company property and that violators could be fired.

"We see so much odd behavior in the absence of weapons in these times. We just want our people safe," Mr. Chapman says.

With 26 states now allowing citizens to be licensed to carry concealed weapons, more businesses are being forced to weigh those rights against the safety of their employees and customers. Many are joining Foodbrands in drafting written policies that direct employees to leave weapons at home. Others also are prohibiting customers and visitors from carrying guns on their premises.

Sonic Corp., based in Oklahoma City, prohibits employees from carrying handguns in its headquarters and company-owned drive-ins. Xeta Corp. of Tulsa, Okla., has banned handguns from its grounds, as has Oryx Energy Co. of Dallas.

Even the Alamo, long a symbol of armed resistance on Texas' wild frontier, rewrote its policy early this year to prohibit employees and tourists from bringing concealed handguns within its walls, says security chief Bobby Booth.

Not only are businesses concerned about safety at a time when workplace violence is one of the leading causes

of job-related deaths, but they also hope that written policies will protect them from legal liability. "The very idea of concealed weapons is enough to convince many employers that they truly have to take action," says attorney Don Willett of Haynes & Boone in Austin, Texas, who advises clients to officially forbid weapons at their businesses.

While it's easy to understand why businesses wouldn't want guns in the office, it may not be so easy to keep

vised businesses say they know of no challenges so far to businesses' weapons bans.

The National Rifle Association and many sponsors of the states' legislation contend that businesses shouldn't deny citizens their legal right to self-defense and say they expect legal challenges against business policies banning weapons. "If a business prohibited a person from coming into that business with a permitted handgun and something went wrong, that person may sue and say,

"If only I could have had my ability to self-protection," Oklahoma Rep. Fred Stanley says.

While six states—Texas, Oklahoma, Arkansas, North Carolina, Virginia and Nevada—implemented laws on Jan. 1, another dozen have been considering such laws. So the confusion is likely to spread.

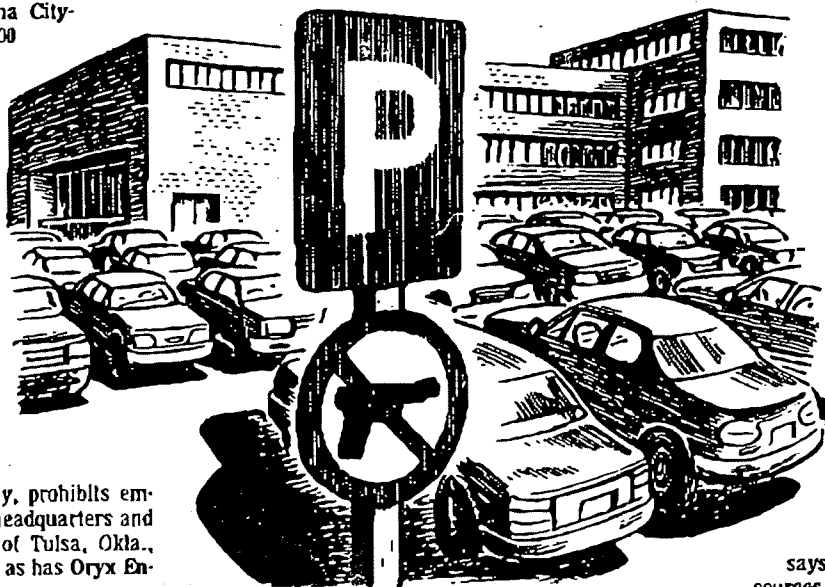
Certainly, not all companies have to worry about whether to have a policy. Federal law prohibits taking guns into banks, and most state laws don't allow permit holders to take weapons into many public places, like courthouses, schools, hospitals, liquor stores or bars.

Moreover, employers' concerns may be overblown, since only 1% to 2% of citizens are expected to apply for permits in states where concealed handguns are legal. Most of the laws prohibit felons and the mentally ill from obtaining licenses, and some states, like Texas and North Carolina, require training courses for concealed-handgun permits.

BancFirst Corp. of Oklahoma City doesn't plan to devise a rule for its corporate office, because it believes a policy would require it "to search for guns on people who enter," says Michael Rogers, vice president of human resources. Enforcement of a ban—such as with metal detectors or searches at the doors of business establishments—would be expensive and impractical, he says.

Mr. Willett of Austin says businesses that want legal protection don't have to monitor workers' every move. But, he says, they do need to provide good security and

Please Turn to Page B3, Column 4



Christophe Voilet

guns out. Companies could be sued by permit holders, who claim they are being denied their newly bestowed rights. "There's a potential for liability in either direction," says attorney Laura Franze of Akin, Gump, Strauss, Hauer & Feld in Dallas. Lawyers who have ad-

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## Concealed-Gun Laws Create Legal Traps For Many Businesses

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*Continued From Page B1*

to develop violence-prevention programs that teach managers and employees how to defuse hostility, handle threatening situations and respond to crises.

Companies also could use some help clarifying laws. While legislation in most states allows businesses to ban weapons, Texas' law, for example, doesn't extend the definition of business premises to parking lots. State Sen. Jerry Patterson, a sponsor of the legislation, says lawmakers need to correct that "glitch" next year. If parking lots are included in the definition, businesses that ban weapons may have to post signs at lot entrances saying so.

The myriad possibilities and lack of legal precedents have left some businesses groping for direction. Road-paving equipment maker CIS Technologies Inc. in Tulsa, Okla., and trucking concern American Freightways Corp. in Harrison, Ark., say they're still weighing their options.

Luby's Cafeterias Inc., which suffered the worst mass-shooting incident in U.S. history in 1991 when a gunman in Killeen, Texas, shot 23 people before killing himself, says it has decided not to bar patrons from carrying concealed handguns. It will continue to prohibit employees from bringing weapons to work, however.

Ben Cervin, a lawyer with the Dallas firm Thompson & Knight, says the approach Luby's took, banning only employees' guns, may ultimately prove to be the most sensible since employers have typically faced greater liability for actions by their employees than by third parties.

Meanwhile, most lawyers who advise businesses are convinced that judges and juries will ultimately have to settle the issue of businesses' liability. "I think we are destined for a courthouse showdown over the law," Mr. Willett says.

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## FLORIDA: MURDER WITH HANDGUNS

Year	Murders w/handgun <sup>1</sup>	Legislative Action
1987	569	CCW becomes effective 10/1/87.
1988	n/a	
1989	700	After a rash of unintentional deaths of children by firearms, Legislature passes first in the nation Child Access Prevention law.
1990	588	Background check passes in Legislature, <b>effective 10/1/90</b> ; State-wide election on, a constitutional amendment (Article 1, section 8) for a 3-day waiting period passes by a margin of 85% - 15%; <b>effective 11/6/90</b> .
1991	565	In accordance with the constitutional amendment, Legislature makes it a felony to violate the 3-day waiting period.
1992	554	
1993	525	

<sup>1</sup> Source: Florida Department of Law Enforcement

## Public Opinion and Chamber of Commerce Surveys

### KANSAS STATE UNIVERSITY POLL

1996 Kansas Poll conducted by Kansas State University (March 1996)

Question: Should people be allowed to carry concealed weapons?

**NO: 478 (73%) YES: 173 (27%)**

(Of 700 Kansas adults surveyed, 651 actually responded to this question.)

### CHAMBER OF COMMERCE MEMBERSHIP SURVEYS

<u>Chamber/Date of Survey</u>	<u>Question</u>	<u>Results</u>
<b>Lawrence Chamber of Commerce/12-96</b>	In Kansas, it is legal to carry a gun if it is licensed and carried in plain view. It is not legal to carry a concealed weapon unless you work in the law enforcement field. Proponents of concealed weapons wish to enact a change in our state laws so that a person without a felony conviction who takes a weapons safety course may carry a concealed weapon in Kansas	<b>Oppose - 374 (77%)</b> <b>Support - 111 (23%)</b>  (30% of membership responding)
<b>Overland Park Chamber of Commerce/10-96</b>	Do you support or oppose concealed carry of weapons?	<b>Oppose - 102</b> <b>Support 20</b>  (12.2% of membership responding)
<b>Topeka Chamber of Commerce (in process)</b>	<ol style="list-style-type: none"> <li>1. Do you personally support state legislation authorizing the carrying of concealed weapons?</li> <li>2. Do you feel comfortable with employees and customers, where you work and shop, carrying concealed weapons?</li> </ol>	<p><b>* preliminary results</b></p> <p>Total returned to date - 147</p> <ol style="list-style-type: none"> <li>1. <b>No - 124 (84%)</b> <b>Yes -23 (16%)</b></li> <li>2. <b>No - 124 (84%)</b> <b>Yes -23 (16%)</b></li> </ol> <p>(8.7% of membership responding)</p>

ROBERT MARTIN  
WILLIAM L. OLIVER, JR.  
PAUL B. SWARTZ  
DWIGHT D. WALLACE  
LARRY B. SPIKE\*  
MARTIN W. BAUER  
DAVID S. WOODING  
GEORGE C. BRUCE  
TERRY L. MALONE  
JEFF C. SPAHN, JR.  
JEFF KENNEDY  
TERRY L. MANN  
TERRY J. TORLINE  
STUART M. KOWALSKI  
BRIAN S. BURRIS  
ANN T. RIDER

LAW OFFICES OF  
**MARTIN, PRINGLE,  
OLIVER, WALLACE & SWARTZ, L.L.P.**

6900 College Blvd., Suite 940  
Overland Park, KS 66211  
Telephone (913) 491-5500  
Telefax (913) 491-3341

MICHAEL G. JONES  
RICHARD K. THOMPSON  
KATHRYN GARDNER  
ELLEN TRACY  
BRENT A. MITCHELL  
ROGER E. McCLELLAN

OF COUNSEL:  
KENNETH PRINGLE  
ORVAL J. KAUFMAN

KANSAS CITY OFFICE  
THOMAS A. HAMILL\*  
B. SCOTT TSCHUDY\*  
SHARON L. STOLTE\*

\*ADMITTED IN KS & MO

February 5, 1997

The Honorable Lana Oleen  
Chairman, Senate Federal and  
State Affairs Committee  
State House  
Topeka, KS 66112

RE: Legislation SB 21 - Licensure to Carry Concealed Weapons and  
Legislation SCR 1606 - Proposition to Amend Article 15 of the Kansas  
Constitution to Allow Carrying of Concealed Firearms

Dear Senator Oleen:

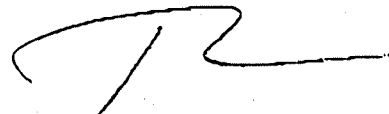
I am writing to express my opposition to any legislation and to any proposed Constitutional Amendment to allow the carrying of concealed weapons or firearms. Although I am an outdoors man and have enjoyed hunting, particularly upland game birds, I am opposed to the suggested legislation and Constitutional Amendments to allow the carrying of concealed weapons. This is certainly not an issue of Constitutional magnitude. The right to bear arms, as granted in the United States Constitution, has nothing to do with concealed weapons.

As a father, attorney and business owner, I am certainly concerned about crime and crime prevention. The carrying of a concealed weapon, however, is certainly not the answer to those problems. I do not believe that carrying a concealed weapon will provide safety or protection. Certainly there are more fundamental things that can be done to address the problem of crime in our state.

Therefore, I respectfully request that you do not favorably consider such legislation or a proposed Constitutional Amendment.

Sincerely,

MARTIN, PRINGLE, OLIVER,  
WALLACE & SWARTZ, L.L.P.



Thomas A. Hamill

TAH/ceb



**TENSION ENVELOPE CORPORATION**

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818 EAST 19TH STREET / KANSAS CITY, MISSOURI 64108 1781 / 818 • 471-3800

February 7, 1997

Senator Lana Oleen, Chairperson  
State of Kansas Senate Committee  
on Federal and State Affairs

Dear Senator Oleen:

I write this letter to express myself as respectfully but adamantly opposed to any legislation licensing the carrying of concealed weapons.

In my opinion such legislation for the sole purpose of self defense is tantamount to qualifying underage drivers for driving automobiles at younger ages than presently required simply on the basis of passing certain required tests.

There are factors of maturity and experience and disposition that must be considered in both instances and neither of these essential factors would be acquired by any simple training program. The real basic problem which must be considered in either justifying or opposing legislation for concealed weapons, really, in my estimation, adds up to a very indisputable conclusion that concealed weapons offer a very dangerous cure to a minimal disease with attendant risk that can be very disturbing to our culture and the atmosphere in our society.

We would have to anticipate that the advent of such legislation would be accompanied by many accidental mishaps and very definitely an implicit danger of self-inflicted injury particularly in homes where children reside.

I don't think any of this makes any sense and justifies such risk by civilized society notwithstanding the pressures of the National Rifle Association or the gun dealers.

Senator Lana Oleen, Chairperson  
February 7, 1997 - Page Two

My research tells me that contrary to what we are led to believe the availability of concealed weapons has not made our States a safer place. The opposite is true. The violent crime rate in Florida, for example, has increased every year since the adoption of such legislation in 1987 and the decrease in the homicide rate can be attributed to the enactment of very stringent gun laws since that time.

I think it is clear that the attention of our legislators and our citizenry should be riveted to the matter of stringent handgun control and not to the relaxation permitting concealed weapons.

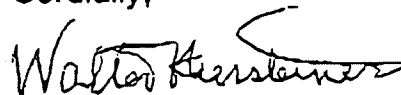
The enforcement of whatever restrictions might accompany the passage of concealed weapon legislation would not be at all reassuring. Persons with a history of violence but without convictions would in the main be freely able to move in our society with loaded and concealed weapons.

I am informed that some of the States with concealed weapon legislation are the major sources of traffic in concealed weapons nation-wide.

We have to be on guard should handguns be totally and quickly available as a kind of easy method in the resolution of conflicts.

Finally, I think we should be no more in support of this kind of legislation than we might do in legalizing dueling or requiring the deposit of concealed weapons prior to entering business establishments or governmental offices. Legalizing concealed weapons is simply inconsistent with the civilized atmosphere we should be promoting in the minds of our children and also in the minds of all of our citizenry.

Cordially,



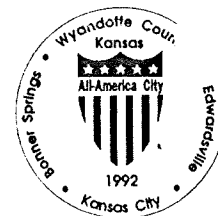
Walter Hiersteiner  
6142 Reinhardt Drive  
Shawnee Mission, Kansas 66205



Executive Chamber  
One McDowell Plaza

# City of Kansas City, Kansas

Carol Marinovich, Mayor



Kansas City, Kansas 66101  
Phone (913) 573-5010

February 11, 1997

Representative Garry Boston  
Chairperson of House Federal and State Affairs Committee  
300 SW 10th Avenue Room #519-S  
Topeka, Kansas 66612-1504

**RE: *Opposition to any legislation changing current concealed-weapons laws***

Dear Representative Boston  
and members of the House Federal and State Affairs Committee:

The City of Kansas City, Kansas has a very strong concern about any proposed initiative which would change or expand the current state's concealed weapons laws.

The City Council and I strongly oppose any legislative efforts to restrict or preempt local home rule authority to regulate firearms, including the possession or discharge of firearms in public places within cities. As a matter of public safety, we also oppose any modification of state statute which would allow ordinary citizens to carry concealed weapons in public places.

Furthermore, we strongly oppose any preemption of the ability of cities in Kansas to regulate firearms. Research conducted by the Kansas League of Municipalities indicates that cities in Kansas have regulated firearms in one way or another since at least 1861. Preemption of all local gun control laws, it has been argued, would allow that gun control could be managed as a uniform matter by the Kansas Legislature. Unfortunately, there is virtually no gun control of any substantive nature contained in state statute. We believe preemption of local control over weapons would have a significant negative impact on constitutional home rule in Kansas, and would require a "one-size fits all" mentality for gun control.

If this initiative for preemption of local control over guns is successful, we can expect in the foreseeable future numerous large jurisdictions going to the legislature asking for legislation to allow them to solve a specific problem in their community. Unfortunately, any statute that would be enacted after that point would be applicable to all jurisdictions in Kansas -- both large and small, urban or rural.

We fully support the expert opinions expressed to you by Wyandotte County District Attorney Nick Tomasic and Kansas City, Kansas Police Chief Jim Swafford. Mr. Tomasic and Chief Swafford strongly oppose concealed carry and preemption of local control over guns. They are convinced without a shadow of a doubt that any change in state laws on concealed weapons would not deter criminal activity. Furthermore, it is their belief that any change could place significant liability on Kansas communities statewide.

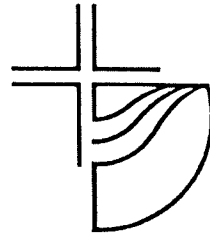
Sincerely,

Carol Marinovich  
Mayor

Fed & State  
2-11-97  
Atch # 20

McPherson Church of the Brethren

200 N. Carrie      McPherson, Kansas 67460  
316 241 1109      FAX 316 241 1123



Church of the Brethren

TESTIMONY TO HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS REGARDING H.B. NO. 2159

Honorable ladies and gentlemen of the House. Thank you for this opportunity to present views on this critical legislation. I am here representing the official board of the McPherson Church of the Brethren, as well as myself.

Growing up on an Iowa farm I learned to shoot sparrows with a B.B. gun; rabbits with a rifle; and pheasants with a shotgun. However, long before I could load B.B.'s into a gun, my father taught me never, never, to point any kind of a gun, even a toy, at any person. This philosophy has served me well for over three score years and ten. I have no intention of abandoning it now regardless of what laws may be passed.

This also applies to the Church of the Brethren. For more than 100 years the McPherson church, as well as the denomination, has taken seriously the commandments of love of neighbor, the necessity for reconciliation, and forgiveness of even our enemies. We abhor the philosophy of an eye-for-an-eye, or a life-for-a-life.

H.R. 2159 resorts to the law of the jungle for the settling of differences. It tells our youth, "When you are grown, you, too, can be a gun-toter." My father resorted to education, not to eradication. We would come closer to accomplishing the goals of a safer society by using the millions this bill would cost for improving public education rather than for background checks, volumes of paper pushing, and costly instructions on how to use a weapon effectively.

Less than two weeks ago, 13 year-old Chad Carpenter, of Goddard, was killed when he accidentally shot himself in the head with his father's loaded .22 revolver. It is easy to imagine even more deaths when little girls and boys begin exploring their mothers' purses if this concealed weapons legislation is passed. The New England Journal of Medicine reports that a gun in the home is 43 times more likely to cause the death of a family member or a friend than a criminal. Carrying concealed weapons will begin and end in the home adding to these tragic statistics.

Committee members, I appeal to you on behalf of our children and grandchildren to vote "no" on this legislation which has the potential of turning our state into the wild west, an image we have been trying to overcome for the last 100 years!

Thank you for providing this time to exercise our democratic privilege and responsibility.

D. Eugene Lichty  
1001 Darlow Dr.  
McPherson, Kansas 67460

Fede State  
2-11-97  
Atch # 21

11 February 1997

Senate Bill 21

Dear Senators/Representatives:

Though the statistics prove the "Right to Carry" laws significantly reduce crimes, it is actually irrelevant to the purpose of the bill. The relevancy of SB 21 is whether I have a right to protect myself and my family. There are thousands of state and federal agencies dedicated to fighting crime. Realistically, these agencies have only a vague and distant interest in protecting me or my family from crime.

If statistical crime, the crime without faces, is the issue, then it is truly amazing that the proponents come to these hearings with statistical proof that the "Right to Carry" will reduce crime, while the opponents plead fear and doom. The opponents don't want anyone, much less the law-abiding citizens of Kansas, to have the right to protect themselves. I wonder how many of these opponents have been victims of violent crimes?

It is also irrelevant whether the Junction City judge cannot aim straight enough to shoot himself in the foot. SB 21 will not force the judge to protect himself. The relevancy of SB 21 is whether I have a right to protect myself, not whether the judge chooses not to protect himself, not whether the KBI is swamped with paper work, and not whether some religious group, which is geographically and socially isolated from the crime that occurs near most of us everyday, and which purports to know the positions and beliefs of over three million NRA members, is fearful of self protection.

The police cannot and, legally, will not protect me or my family. The idea that "someone else will protect me" has a warm and fuzzy feeling to it, but it is quite detached from reality. Having the police show up 20 to 30 minutes after a "911" call, to only fill out paper work, to tell me to contact my insurance company, is not reassuring in the least.

The "Right to Carry" bill will not make criminals out of law-abiding citizens. Crimes are committed by a given percentage of the populace, regardless of the types or numbers of laws. It is my right to protect myself so I do not become another faceless statistic.

I am intellectually dismayed by the fact that I must plead before these hearings that the Kansas legislature allow me the fundamental right to protect myself. It is quite embarrassing that Kansas, of all places on earth, presently disallows me the right to self protection.

I implore you to stand up and be counted as supporting Senate Bill 21, without qualification. And I implore you to convince Governor Graves to sign the bill if passed, and to convince him to be a stand up kind of governor.

William E. Stewart, Jr. PhD PE  
1806 Arrowhead Dr.  
Olathe, Kansas 66062

Fed & State  
2-11-97  
Atch # 22

## TESTIMONY ON HOUSE BILL 2159

Douglas S. Murphy  
Chief of Police  
Kinsley, Kansas

MY NAME IS DOUGLAS S. MURPHY AND I AM THE CHIEF OF POLICE FOR THE CITY OF KINSLEY, KANSAS. KINSLEY IS LOCATED APPROXIMATELY 37 MILES EAST OF DODGE CITY, KANSAS, AND SETS ALONG THE ORIGINAL SITE OF THE SANTE FE TRAIL. BOTH DODGE CITY AND THE SANTE FE TRAIL ARE RICH IN KANSAS HISTORY AND WHAT KANSAS WAS ONCE KNOWN FOR: GUNFIGHTS, LAWLESSNESS, AND A GENERAL DISREGARD FOR THE WELFARE AND SAFETY OF THE CITIZENS OF THAT TIME.

THE STATE LEGISLATURE IS CONSIDERING ADOPTING THE PROVISIONS OF HB 2159; THAT OF ALLOWING CITIZENS TO CARRY CONCEALED WEAPONS. A NUMBER OF STATES, INCLUDING OUR NEIGHBORS TO THE SOUTH, OKLAHOMA AND TEXAS, HAVE PASSED SIMILAR LAWS. IT WOULD APPEAR CITIZENS OF THOSE STATES, AND NOW THE CITIZENS OF THE STATE OF KANSAS, ARE BECOMING INCREASINGLY ALARMED ABOUT THEIR SAFETY IN TODAY'S SOCIETY WITH THE RISING CRIME RATE. THE PEOPLE ARE WANTING TO BE PROTECTED, WHICH WE AS LAW-MAKERS AND LAW ENFORCERS ARE FINDING IT INCREASINGLY DIFFICULT TO PROVIDE THE PROTECTION THE CITIZENS EXPECT AND SHOULD HAVE THE BASIC RIGHT TO DEMAND.

CURRENTLY UNDER KANSAS LAW ANY PERSON CAN, WHO IS NOT OTHERWISE PROHIBITED BY LAW, OPENLY CARRY A FIREARM ANYWHERE WITHIN THE STATE OF KANSAS UNLESS THERE IS A CITY ORDINANCE OR COUNTY RESOLUTION TO THE CONTRARY. ADOPTING A LAW THAT ALLOWS A CITIZEN TO CARRY CONCEALED WEAPONS, EVEN ONE WHO MAY BE LAW-ABIDING AND MEET THE ELIGIBILITY SET FORTH IN HB 2159, HAS THE

Feds State  
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Page -2-

POTENTIAL OF RETURNING US TO THE DAYS OF THE WESTERN FRONTIER WHEN CITIZENS TOOK THE LAW INTO THEIR OWN HANDS.

MOST PEOPLE WHO WOULD APPLY FOR AND BE ISSUED A LICENSE TO CARRY A CONCEALED WEAPON WILL NEVER HAVE TO USE THE WEAPON IN THEIR PERSONAL DEFENSE, OR TO KEEP THEMSELVES FROM BECOMING A VICTIM OF CRIME. ALTHOUGH CRIME RATES HAVE INCREASED AT ALARMING RATES, THE CHANCES OF A PERSON BECOMING THE VICTIM OF VIOLENT CRIME IS STILL RELATIVELY LOW. THE NEED FOR THE AVERAGE CITIZEN TO CARRY A CONCEALED WEAPON IS NOT IMPERATIVE TO THEIR SAFETY.

ON THE OTHER HAND, ALLOWING PEOPLE TO CARRY WEAPONS, CONCEALED OR OTHERWISE, ONLY INCREASES THE POTENTIAL FOR FURTHER HARM; HARM IN THE FORM OF ACCIDENTAL SHOOTINGS WHICH WILL RESULT IN INJURY OR DEATH. ALLOWING THE CARRYING OF WEAPONS WOULD ALSO INCREASE THE POTENTIAL FOR A NORMALLY LAW-ABIDING PERSON TO RESORT TO VIOLENCE THEMSELVES WHEN CONFRONTED WITH A SITUATION SUCH AS A FIGHT, A CAR WRECK, A NEIGHBORHOOD DISPUTE, DOMESTIC VIOLENCE, AND SO FORTH. I AM SURE THE COMMITTEE IS AWARE OF THE NUMBER OF SHOOTINGS IN OTHER STATES ARISING SIMPLY OVER ONE PERSON MAKING OBSCENE GESTURES AT ANOTHER PERSON. ADOPTING THE PROVISIONS OF HB 2159 WOULD ONLY INCREASE THE POTENTIAL FOR GREATER HARM.

I FULLY UNDERSTAND AND APPRECIATE THE AVERAGE, LAW-ABIDING CITIZEN'S CONCERN FOR SAFETY IN THE FACE OF TODAY'S RISING CRIME. HOWEVER, I BELIEVE THAT HB 2159 IS NOT THE SOLUTION TO THE CONCERNS FELT BY OUR CITIZENS.

Page -3-

EACH YEAR THE GALLUP POLL CONDUCTS A PUBLIC OPINION SURVEY OF THE DIFFERENT SEGMENTS OF OUR SOCIETY. IN 1993, LAW ENFORCEMENT WAS RANKED AS HAVING THE THIRD HIGHEST APPROVAL RATING OF ALL THE DIFFERENT SEGMENTS OF OUR SOCIETY, COMING IN BEHIND THE MILITARY, WHICH WAS RANKED FIRST WITH 64%, AND THE CHURCH, WHICH WAS RANKED SECOND WITH A 62% APPROVAL RATING. IN 1994, LAW ENFORCEMENT PASSED THE CHURCH AND HAD THE SECOND HIGHEST APPROVAL RATING, AT 61%. BOTH THESE SAME YEARS THE CRIMINAL JUSTICE SYSTEM CAME IN FAR BELOW THE DISMALLY LOW 22% APPROVAL RATING HELD BY CONGRESS.

THIS WOULD SUGGEST THAT CITIZENS BELIEVE LAW ENFORCEMENT DOES WHAT IT CAN TO PROTECT THEM. RATHER, THEIR CONCERN IS WITH THE CRIMINAL JUSTICE SYSTEM'S INABILITY TO FOLLOW-THRU IN THE PROCESS. I SUGGEST THE FEELINGS FELT BY OUR CITIZENS WOULD BE BETTER ADDRESSED BY LOOKING CLOSER AT THE CRIMINAL JUSTICE SYSTEM AND WHAT CAN BE DONE TO MAKE CRIMINALS LESS APT TO COMMIT CRIME. A COUPLE OF AREAS THAT COULD BE ADDRESSED WOULD BE STIFFER, MANDATORY SENTENCING AND REDEFINING THE JUSTICE SYSTEM INTO A VICTIM- OR SOCIETY-BASED JUSTICE SYSTEM RATHER THAN A CRIMINAL JUSTICE SYSTEM.

AS AN EXAMPLE, AGGRAVATED BATTERY IS A VIOLENT CRIME WHEREIN A PERSON IS INJURED WITH A DEADLY WEAPON AND, AS DEFINED IN K.S.A. 21-3414(a)(1)(B), IS A SEVERITY LEVEL 7 PERSON FELONY AND PROVIDES A PRESUMPTION OF PROBATION; UNLESS THE OFFENDER HAS A



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LENGTHY CRIMINAL HISTORY. NO WONDER OUR CITIZENS FEEL THEY NEED TO ARM THEMSELVES.

SURPRISINGLY, THE PEOPLE I HAVE TALKED TO IN MY SMALL WESTERN KANSAS COMMUNITY, PEOPLE WHO ARE MORE INCLINED TO HANDLE PROBLEMS WITHOUT POLICE OR COURT INTERVENTION, ARE THEMSELVES OPPOSED TO CONCEALED CARRY. THESE SAME PEOPLE ALSO WOULD NOT MIND PAYING MORE IN TAXES FOR MORE PRISON BEDS IF THEY SAW MORE CRIMINALS GOING TO PRISON AND NOT BEING RELEASED BACK INTO SOCIETY.

THE UP SIDE TO REDEFINING THE JUSTICE SYSTEM WOULD BE CITIZENS WHO FELT THE JUSTICE SYSTEM WAS, IN FACT, TRYING TO PROTECT THEM.

I PERSONALLY BELIEVE IN THE SECOND AMENDMENT AND A LAW-ABIDING CITIZEN'S RIGHT TO OWN FIREARMS, AND IN NO WAY WANT TO CONVEY AN ALTERNATE IMPRESSION. HOWEVER, I FEEL THE ISSUE OF CONCEALED CARRY IS NOTHING MORE THAN A KNEE-JERK REACTION TO A GREATER PROBLEM, AND NOT THE SOLUTION NEEDED IN AN ORDERLY SOCIETY. THE "CALL TO ARMS" FOUND IN THE PROPOSED BILL WOULD ONLY RETURN US TO THE DAYS OF THE WILD WEST, DODGE CITY STYLE GUNFIGHTS, AND THE LAWLESSNESS FOUND IN THE EARLIER DAYS OF OUR STATE'S HISTORY.

THANK YOU FOR YOUR TIME AND ANY CONSIDERATION YOU MAY GIVE TO MY COMMENTS.

TESTIMONY  
for  
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
January 10, 1997

Thank you for the opportunity to testify in opposition to House Bill 2159, which give certain citizens the right to carry concealed weapons.

As a child advocate, I must speak to the potential danger to young children who watch their parents, or other relatives, stash a weapon in a purse or under a coat. Young children are so curious and impressionable. Where are our "family values"? Is packing a gun the positive role modeling to which we aspire.

I am aware of the training that is required by the bill. Unfortunately, anger control is not required, nor is sound judgement a requirement. I can picture a few shootouts in congested city traffic.

Our country already has more injuries and death from handguns than any other country. How can we expect that concealed weapons will do anything but raise that statistic?

In conclusion, I would ask that you not let a few over zealous people influence public policy. Please consider policy that keeps young children safe.

*Carolyn Weirhold  
Salina, Ks.*

Fede State  
2-11-97  
Atch# 24



# CITY OF TOPEKA

City Council  
215 E. 7th Street Room 255  
Topeka, Kansas 66603  
Phone 913-295-8710

## LEGISLATIVE TESTIMONY CITY OF TOPEKA HOUSE BILL 2159

**TO:** Chairman Boston and Members, House Committee on Federal and State Affairs  
**FROM:** Jim Kaup, City of Topeka  
**DATE:** February 10, 1997  
**RE:** HB 2159 -- Carrying Concealed Weapons

The City of Topeka appears in strong opposition to HB 2159. For many years now the City has appeared before this Committee in opposition to legislation similar to HB 2159, seeing it as a threat to public safety and to the safety of law enforcement officers, and as an unjustified and harmful intrusion by the State upon a subject local governments have historically regulated.

### I. STATE LICENSE TO CARRY CONCEALED WEAPONS

HB 2159 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 to issue a license to any adult Kansan who "desires a legal means to carry a concealed weapon for lawful self-defense" (Sec. 4 (a) (6)) if that Kansan can pass basic screening related to prior criminal convictions, alcohol or drug use, mental and physical condition and proof of completion of a firearm safety and training course (Sec.4).

Topeka, like a large number of cities in Kansans, has an ordinance which parallels the state law crime of criminal use of weapons, K.S.A. 21-4201 (Topeka Ord. No. 16664). That statute and

the Topeka ordinance generally make the carrying of a concealed weapon a crime. HB 2159 proposes to (1) create a large exception to the state law to allow, upon licensure, most Kansans to carry concealed weapons into most places in this state, and (2) invalidate the laws of Topeka and those of many other cities which conflict with the exercise of this new statutory right.

The City does not offer testimony today regarding how many of the more than 67,000,000 handguns in this country are owned by Kansans. We do not know how many Kansans would exercise this new right to carry their handgun, concealed on their person. Nonetheless, it is entirely reasonable to believe HB 2159 would put more guns on the streets than there are now. Representatives of law enforcement have in the past provided this Committee with testimony that, upon passage of concealed carry, their police officers will know that more of the drivers they pull over for traffic offenses will have handguns concealed on their person. Shopkeepers will know that more of the people coming through their doors will be armed.

HB 2159 prohibits carrying a concealed weapon onto a few specified areas (e.g. a courtroom or elementary school) (Sec. 10). Is it reasonable to believe the licensee will understand it is lawful to carry a concealed handgun into a package liquor store but unlawful to take it into a tavern, okay to carry it into a fast-food restaurant but not into a restaurant with a CMB or liquor license, 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?

This Committee will undoubtedly hear again this year the objections law enforcement officers have to this liberalizing of the firearms laws. The City will defer to those officers for a description of the real-world consequences for law enforcement 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 2159. It is local governments which provide the vast majority of law enforcement. Topeka alone has over 270 law enforcement officers -- by comparison the Kansans Highway Patrol has approximately 600 sworn officers. Kansans cities have many more times the number of law enforcement 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. Local government law enforcement officers are the ones who will primarily feel the consequences of this bill if it is passed. Cities, and their police departments, believe any proposal which would result in more guns being carried into public places is a dangerous threat to the public's safety. The good logic behind that belief speaks for itself.

## **II. STATE PREEMPTION OF LOCAL AUTHORITY**

While the threat it poses to public safety is by itself adequate reason to oppose HB 2159, the City's strongest objection to this bill relates to Section 15, which is state preemption of local lawmaking regarding carrying a concealed weapon. Topeka's 1997 State Legislative Policy Statement provides: "The City opposes any legislative efforts to restrict or preempt local home rule authority to regulate ownership, possession or use of firearms." 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.

The essence of City Home Rule -- as adopted by the voters in 1960 -- is 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.

This Committee should remember that the Kansas Home Rule Constitutional Amendment does not prohibit the legislature from enacting laws relating to local affairs and government. The State of Kansas and the City for many years have both legislated on this subject. In the event of conflict between local law and state law, the rule is that the state law prevails. **The State can establish a state license to carry a concealed weapon without preempting local authority to regulate the same subject, as HB 2159 does by Section 15.**

### 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 Kansas Supreme Court's most detailed examinations of the Home Rule Constitutional Amendment 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 importance of Home Rule -- the need for the people, through their local governments, to be able to respond to local conditions and circumstances that demand local solutions. The Court said:

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 concealed, 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 15 of HB 2159 refers 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 object 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. The recently-issued opinion of Attorney General Stovall is only the most recent pronouncement on this legal question.

If the Kansas legislature wishes to see such a right established in the Kansas Constitution it may initiate that by passage of a current resolution. However merely stating in a statute that such a right exists does not make it so. Attachment A to this testimony summarizes 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 any individual's right to bear arms.*

### IV. COMMITTEE ACTION REQUESTED ON HB 2159

**A. The City opposes HB 2159 and requests Committee action to kill the bill.** We ask you to be respectful of 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 necessary to address local situations and concerns -- local problems which today are handled by Home Rule.

**B.** If the Committee believes HB 2159 should be passed notwithstanding the risks to the public safety which we expect to result from placing more firearms on the streets, **we request extensive amendments to HB 2159** to address the same problems the City pointed out to this Committee last year in the almost-identical HB 2885. These amendments would give the City of Topeka some means to lessen the threat this legislation poses to our citizens.

#### **1. Recognize the liberal construction clause of the Kansas Constitution favoring the exercise of Home Rule in matters of local affairs:**

Revise Section 3 to delete " throughout the state" ( line 26, page 1) and delete Section 15 (a) to preserve the tradition of joint local-state regulatory authority with respect to firearms. (Delete language in lines 13:22 of page 8.)

#### **2. Premises Where Concealed Weapons Would Remain Banned:**

HB 2159 does select a few locations where it apparently is felt that the "right" of "honest, law-abiding" persons to provide for their self-defense by carrying concealed guns is outweighed by the risk created by those guns for judges, jailers and legislators. It is presumptuous for the legislature to say that it knows better than 627 elected city governing bodies, and 105 elected boards of county commissioners, all those local premises into which

a person should not be allowed to carry a concealed weapon.

Therefore we request Section 10 be amended 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 the Committee should add the following places which are not now on the Section 10 list:

- places of worship
- funeral establishments
- city halls
- hospitals, clinic, blood banks and other medical facilities
- mental health facilities and mental retardation/developmental disabilities facilities, including state hospitals, community centers, group homes, crisis homes
- day-care, pre-school or similar 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, whether publicly or privately owned or operated
- any business premises, open to the public, when the premises are posted so as to inform the public that concealed weapons are forbidden upon such premises
- any workplace, public or private, where the employer has adopted rules or regulations prohibiting employee possession of weapons at the workplace

These last two items address glaring omissions to the list in HB 2159: (1) business places open to the public -- why should not a store owner be able to forbid persons from carrying guns onto his or her private property? (2) workplaces -- many employers, private and public, have adopted personnel rules and regulations which prohibit bringing guns onto the workplace. HB 2159 appears to invalidate such employment contracts.

### **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 4 or, in the alternative, add the following disqualifications for licensure, or grounds for license revocation or suspension, to those set out in Section 4:

- conviction of any non-felony crime involving the use of a firearm e.g. any violation of K.S.A. 21-4201
- 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

- also, section 11 covers situations where a licensee is DUI. This should be a felony level offense, not the proposed misdemeanor and Section 11 should expressly state that DUI conviction or diversion will result in a loss of the license.

**4. Public Costs:**

To ensure that those who enjoy the statutory privilege which would be created by HB 2159 do not exercise it totally at the expense of the taxpayers:

- authorize local governments to require licensed persons to carry personal liability insurance to provide a source of compensation to members of the public who may be injured or killed by the discharge of a concealed gun
- authorize local governments to impose a concealed weapons annual permit fee
- 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 6 to expressly provide that lists of licenseholders, whether created by the state or a political subdivision of the state, are open to public inspection under K.S.A. 45-215 et seq.

**6. Discrimination in Licensure Qualifications:**

Section 4 lists categories of people who apparently do not merit a "right" to have concealed weapons for self-defense, or who suffer from a label that makes them something less than "honest, law-abiding" persons (Sec. 15 (a)). In creating these categories HB 2159 discriminates against persons with disabilities. On its face HB 2159 is 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. 1201 et seq.

- e.g.
- page 2, line 1: "...does not suffer from a physical infirmity..."
  - page 2, lines 8:9: "...mentally ill person or involuntary patient..."
  - page 2, lines 9:11: "...an alcoholic ... a drug abuser..."
  - page 2, lines 16:17: "... committed for the abuse of alcohol..."
  - page 2, lines 25:29: "...has not been adjudged a disabled person"

**7. "Constitutional Right to Bear Arms for Self-Defense":**

The City urges this Committee not to approve language for the statute books which is clearly erroneous as to the existence of a constitutionally-based right of individuals to "bear arms".



Whether one believes such a constitutional right should exist or not, saying it does by statute serves only to confuse Kansans and reflects poorly upon the lawmaking process. (Delete Section 15 (c), (lines 31:34 of page 8).

## ATTACHMENT

### FEDERAL AND STATE CONSTITUTIONAL RESTRICTIONS ON FIREARMS REGULATION

- A. **The SECOND AMENDMENT to the federal constitution, according to the intent of the Founding Fathers and interpretations of the U.S. Supreme Court, guarantees the states the right to maintain a well-armed militia. It does not guarantee 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 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 militia, 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.

- 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. Balksley, 72 Kan. 230 (1905). The Court noted that: "That 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 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.



7240 W. 98TH TERR., SUITE 130 • OVERLAND PARK, KANSAS 66212 • OFF: 913-642-8000; FAX: 813-642-8688

GARY UPAH  
DISTRICT MANAGER

MEMBER ALL AMERICAN CLUB

HALL OF FAME CLUB



February 10, 1997

Mary Birch  
President Overland Park Chamber of Commerce

RE: Concealed Weapons Legislation

Dear Mary,

The Kansas legislature is considering concealed weapons legislation again this session. As a citizen and businessman in Overland Park, I am concerned about the ramifications of passing such legislation on a wholesale basis as proposed in the past. Allowing concealed handguns to be in the hands of untrained, unqualified, and stressed-out citizens is an invitation to tragedy. If we are to continue calling ourselves a civilized society we should not be considering legislation which would allow our society to revert to the days of the "old west" when people worked out their differences in violent and often fatal ways.

With today's workplace stress and freeway congestion, incidents periodically occur where guns are involved. Imagine the consequences of allowing everyone to take guns to work or have guns in their cars. If this legislation were passed I would seriously consider relocating my business and my family to a more civilized and safer State.

Situations do exist however, when individuals are placed in positions of personal risk because of occupational demands. Those people who carry large amounts of cash regularly or work in high risk areas should be allowed to apply on an individual basis for a concealed weapons permit. These individuals should demonstrate knowledge of gun safety, demonstrate personal need, and be approved on an individual basis, subject to federal background checks. Other states currently have similar legislation with acceptable results.

Sincerely,

Gary M. Upah  
American Family Insurance

Fede State  
2-11-97  
Atch # 26

**STATEMENT BY BRUCE DIMMITT**  
Before Kansas House Federal & State Affairs Committee  
February 11, 1997

**COMMENTS ON HOUSE BILL No. 2159**  
**"PERSONAL & FAMILY PROTECTION ACT"**

My name is Bruce Dimmitt. I am a citizen of Overland Park (Johnson County), Kansas. I campaigned in the primary last year for State Senate (8th District). I am now registered as an Independent Lobbyist to work on a number of issues about which I have a concern or about which citizens of Overland Park have concerns. Second Amendment Rights is one of those concerns about which I and others feel very strongly. I appreciate the opportunity to present these comments.

**A citizen's right to bear arms under the second amendment of the constitution must be guaranteed.** In accordance with the intent of our founding fathers, those rights are not complete unless a citizen can carry arms **for self-protection** and not merely for the purpose of sportsmanship or marksmanship. This is a fundamental freedom and right as American citizens. We do not belong to a "police state" where only police can carry arms. The State of Kansas, one of only a few states that currently interfere with citizen's right to carry arms, should not do so except when a specific person may constitute an unusual threat to himself or others.

Law enforcement officers admit that in many instances, it is impossible for them to arrive at the scene of a potentially violent crime in time to prevent death or injury. Therefore, I submit that it is cruel and unusual punishment not to permit a citizen to protect himself or herself.

As I went door-to-door in my campaign last year, I was very much disturbed by the fear that people in Overland Park have about crime. **Many** homes had watch dogs or home security systems. Not infrequently, women were reluctant to open their door to speak to me or receive my literature. Some women, even in apparently decent neighborhoods, said they would not go out alone at night. During my campaign, there was a rash of assaults of women in their homes in Overland Park. **Crime and personal safety seemed to be the number one concern of women.** And this is in Overland Park which prides itself on being one of the finest cities in the nation.

I have three grandsons who live in Kansas City, Kansas. The two older ones have on separate occasions been viciously assaulted after school; one was kicked unconscious and had to be kept in Kansas University Medical Center overnight. I do not advocate that teenagers be granted the right to carry concealed weapons but merely mention these incidents to reflect the seriousness of the crime situation in our cities.

**END**

Fed & State  
2-11-97  
Atch #27



700 SW Jackson, Suite 601  
Topeka, Kansas 66603-3731

913/233-8638 \* FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, Ph.D., R.N.  
President

Terri Roberts, J.D., R.N.  
Executive Director

For more information contact:  
Terri Roberts, JD, RN  
Executive Director  
Kansas State Nurses Assoc.  
913-233-8638

February 11, 1997

### H.B. 2159 CONCEALED WEAPONS

Representative Boston and members of the House Committee on Federal and State Affairs, the Kansas State Nurses Association would like to submit written testimony regarding HB 2159.

Regardless of viewpoints on gun ownership, preventing access to guns is an important consideration in enacting legislation that will broaden gun portability. Our stand on the concealed weapons bill is neutral, however, there are certain safety considerations that we feel need to be addressed prior to passing a bill of this nature.

Upon analysis of SB 21, we find that the provisions for gun safety and storage are minimal. The bill provides for gun handling and storage education to be taught by "...qualified handgun instructor..." who will include the ..."proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child." (SB 21, New section 18(b)(4).) We feel that this is not enough.

Recently, the Kansas Department of Health and Environment (KDHE) released an analysis of firearm related deaths in Kansas. While the analysis included intentional (suicidal), and assault related deaths, it also looked at unintentional deaths from firearms. The two groups most impacted by deaths due to unintentional injury between 1985 to 1994 were males ages 5-14 years, and males aged 15-24 years. Nearly 50% of all US homes own some type of firearm, with one in four families owning a hand gun. Most unintentional firearm deaths occur around the home through access to unsecured firearms.

Additionally, a study conducted in a Texas emergency department found that of families with firearms in the home, 55% of the firearms were loaded at all times, 50% of handguns were not locked or secured, and 10% of the loaded weapons were accessible to children.

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

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S.B. 21 Concealed Weapons  
February 11, 1997  
page 2

Wounds from a gunshot can not only be tragic, but can result in a lifetime of ongoing medical treatment. The injury price tag for the average gunshot victim is \$83,500. Medical costs for a child victim amount to \$3 million per fatality and nearly \$390,000 per hospitalized survivor. Annual national costs for gunshot wounds of children ages 0-14 are \$6.8 billion; for children ages 15-19 the costs are \$18.6 billion per year. These are totals include private and public health care costs.

We point this out merely to remind the committee that if gun usage is to be broadened, there are resulting responsibilities that a licensee needs to be aware of and the state should make an effort to enforce. Regardless of viewpoints on gun ownership, preventing access to guns is the first step in reducing death and injury by firearms, especially to children and adolescents. We propose that the provisions regarding gun storage be strengthened. If, according to the bill, it can be required that a licensee must provide a handgun proficiency certificate prior to receiving a license, the state can also require proof of adequate safety provisions, such as proof of ownership of a gun safe container with a key or combination lock, and a child-proof trigger lock on all guns and loading indicators.

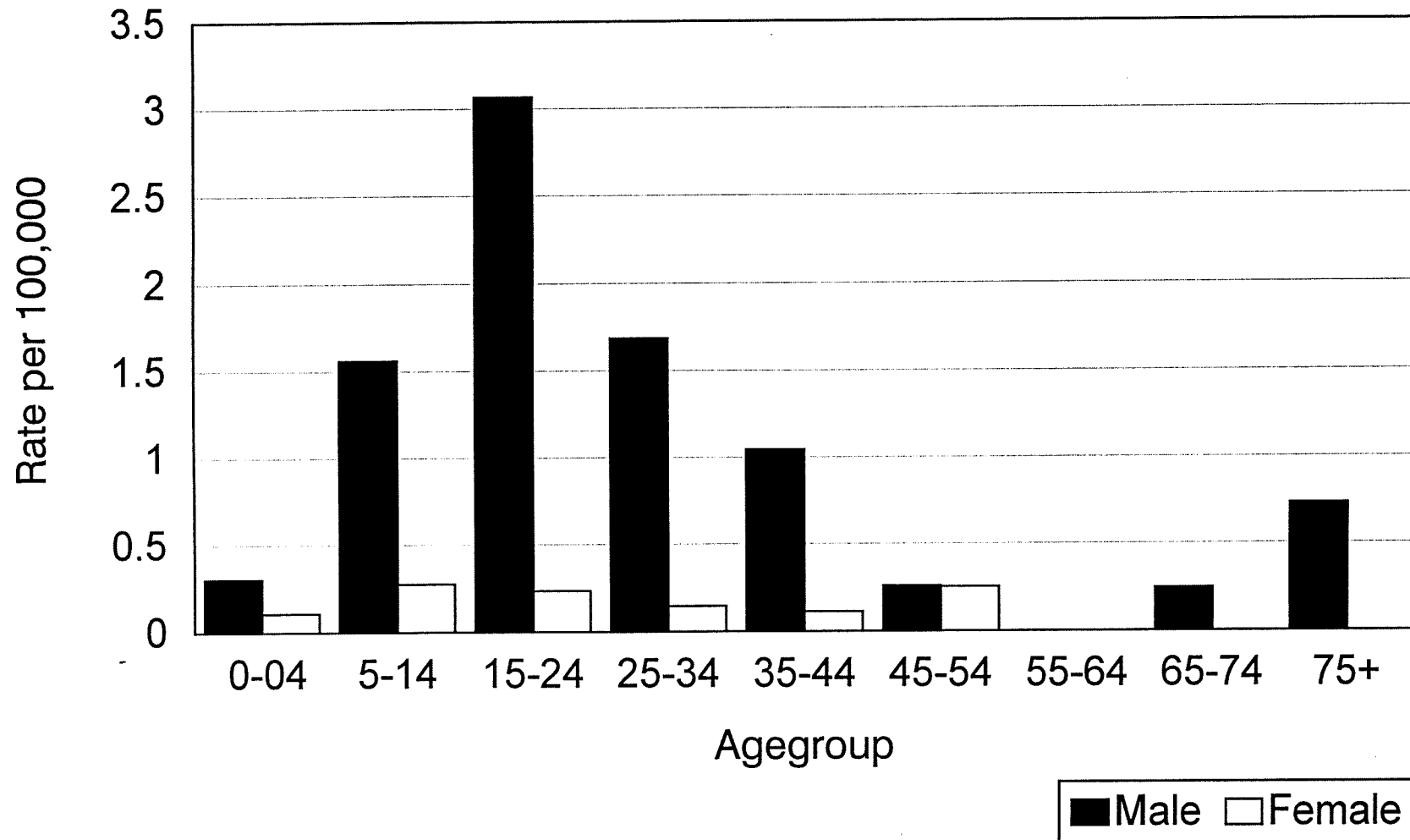
Any death or injury to a child is tragic; one that occurs from involvement with a gun is preventable.

Thank you.

b:dlr/green/sb

# Firearm Injury Deaths-Unintentional

Kansas 1985-94, n=170



Source: KDHE, Vital Statistics

28-3



# LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732  
HB 2159

February 10, 1997

## KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Committee on Federal and State Affairs

by

Terry Leatherman  
Executive Director  
Kansas Industrial Council

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to explain a concern the members of the Kansas Chamber have regarding the issue contained in HB 2159.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 47% of KCCI's members having less than 25 employees, and 77% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The policy question of expanding the rights of citizens to carry a concealed weapon prompts a very divided response from KCCI members. A year ago, a KCCI survey asked two questions concerning the concealed weapons issue. In the first question, asking whether our members support legislation to require officials to issue a concealed weapons permit to any law abiding citizen that has

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2-11-97  
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successfully completed a firearms safety course, the vote was close. Fifty-seven percent opposed the idea, while 43% supported the proposal.

Our second question asked if a business owner should retain the right to determine workplace policies which could preclude employees and customers from carrying a concealed weapon onto the business premises during hours of employment. While our first question drew a split vote, the response to the second question was nearly unanimous, with 96% support. With this overwhelming expression of business support, KCCI respectfully requests consideration of the following amendment to HB 2159.

"Nothing in this act shall be construed to prevent any public or private employer from limiting, restricting or prohibiting in any manner persons licensed under this section from carrying a concealed weapon on the premises of a business or during any period of employment."

The suggested amendment was drawn from employer's rights provisions in bills which have been passed in recent years in Oklahoma and Texas. It attempts to address a core concern of Kansas employers by making clear that granting the affirmative right to citizens to carry a concealed weapon for self defense does not change the traditional rights of employers to set rules regarding this issue for their work place.

In conclusion, KCCI's core concern regarding HB 2159 is that any new right it grants does not alter the Chamber's core belief that an employer should have the clear right to tell an employee to leave their gun at home when they are on the job. In addition, KCCI feels a business owner must retain the right to turn customers away at the door if they are carrying a properly licensed concealed weapon. In addition to the Kansas Chamber, the Kansas Chapter of the National Federation of Independent Business and the Kansas Pest Control Association has asked to join KCCI in this request to amend HB 2159 to make clear a business owner's rights regarding concealed weapons.

Mr. Chairman, thank you for the opportunity to request this amendment to HB 2159. I would be happy to answer any questions.



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
FAX: 296-6296

February 7, 1997

ATTORNEY GENERAL OPINION NO. 97- 17

The Honorable Laura McClure  
State Representative, 119th District  
State Capitol, Room 278-W  
Topeka, Kansas 66612

Re: Crimes and Punishments--Kanas Criminal Code; Prohibited Conduct--  
Crimes Against the Public Safety--Weapons Control; Criminal Use of  
Weapons; Concealed Weapons; Second Amendment to United States  
Constitution

Synopsis: The Kansas prohibition against carrying a concealed firearm except when  
on one's own land, abode or fixed place of business does not violate the  
second amendment to the United States constitution. Cited herein: K.S.A.  
21-4201; L. 1867, ch. 12, § 1; L. 1903, ch. 216, § 1; R.S. 1923, § 21-2411;  
L. 1953, ch. 185, § 1; L. 1955, ch. 194, § 1; L. 1969, ch. 180, § 21-4201;  
U.S. Const., Amend. II.

\* \* \*

Dear Representative McClure:

As representative for the 119th district you ask whether, under the federal constitution or  
the federal bill of rights, the citizens of Kansas currently have a right to carry a concealed  
weapon.

Kansas has a long history of prohibiting the carrying of a concealed weapon. As of 1867  
Kansas law banned any person "not engaged in any legitimate business, any person under  
the influence of intoxicating drink, and any person who has ever borne arms against the  
Government of the United States" from carrying a deadly weapon. L. 1867, ch. 12, § 1.

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In 1903 the law was changed to prohibit any person who was not an officer of the law or his deputy from carrying a deadly weapon on one's person in a concealed manner. L. 1903, ch. 216, § 1. Although subsequent amendments were made in 1923 (R.S. 1923, § 21-2411), in 1953 (L. 1953, ch. 185, § 1) and in 1955 (L. 1955, ch. 194, § 1), the 1903 version remained essentially intact until Kansas adopted a comprehensive weapons control law in 1969 (L. 1969, ch. 180, § 21-4201 *et seq.*). At that time prohibition of carrying a firearm concealed on one's person except when on one's land or abode or fixed place of business became the law of the state. L. 1969, ch. 180, § 21-4201(d). It remains illegal for any person to carry a concealed pistol, revolver or other firearm except when on one's own land, abode or fixed place of business. K.S.A. 21-4201(a)(4).

In effect you question whether the concealed firearm prohibition found at K.S.A. 21-4201(a)(4) violates the federal constitution or the federal bill of rights. Our discussion of your question will be limited to consideration of the second amendment to the United States constitution which provides:

"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."

As aptly summarized in one of many law journal articles:

"The meaning of this language has been extensively debated in light of what has aptly been termed 'The Great American Gun War.' Predictably, but unfortunately, the discussion has mirrored the terms, conditions and bitterness of that 'war.' Debate has been sharply polarized between those who claim that the amendment guarantees nothing to individuals, protects only the state's right to maintain organized military units, and thus poses no obstacle to gun control (the 'exclusively state's right' view), and those who claim that the amendment guarantees some sort of individual right to arms (the 'individual right' view)." Kates, *Handgun Prohibition and the Original Meaning of the Second Amendment*, 82 Mich. L.Rev. 204 (1983).

While popular understanding may well reflect the individual rights' view, with the exception of some early state court authority to the contrary [*Nunn v State*, 1 Ga. 243 (1846); *English v. Texas*, 35 Tex. 473 (1871); *State v. Workman*, 35 W.Va. (1891); *Re Brickey*, 70 P. 609 (Id. 1902)], federal and state court decisions have consistently upheld the states' rights position.

The United States Supreme Court has issued very few decisions directly addressing the second amendment. In its earliest case, *United States v. Cruikshank*, 92 U.S. 542, 23 L.Ed. 588 (1876), the Court held that the right of the people to keep and bear arms:

"[i]s not a right granted by the constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment

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declares that it shall not be infringed, but this, as has been seen, means no more than that it shall not be infringed by congress. This is one of the amendments that has no other effect than to restrict the powers of the national government, leaving the people to look for their protection against any violation by the fellow-citizens of the rights it recognizes to what is called in *City of New York v. Miln*, 11 Pet. [102] 139, the 'powers which related to merely municipal legislation, or what was perhaps more properly called internal police' 'not surrendered or restrained' by the constitution of the United States." 92 U.S. at 553.

Ten years later the Court reiterated its position first announced in *Cruikshank* by stating "that the amendment is a limitation only upon the power of congress and the national government, and not upon that of the state." *Presser v. State of Illinois*, 116 U.S. 252, 265, 6 S.Ct. 580, 584, 29 L.Ed. 615, 619 (1886). The Court further commented:

"It is undoubtedly true that all citizens capable of bearing arms constitute the reserved military force or reserve militia of the United States as well as of the states, and, in view of this prerogative of the general government, as well as of its general powers, the states cannot, even laying the constitutional provision in question out of view, prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining the public security, and disable the people from performing their duty to the general government." 116 U.S. at 265.

Fifty some years after *Presser*, following Jack Miller's conviction of transporting a sawed-off shotgun in interstate commerce in violation of the national firearms act of 1934, the Court in *U.S. v. Miller*, 307 U.S. 174, 59 S.Ct. 816, 83 L.Ed. 1206 (1939), again and for the last time to date, addressed the second amendment:

"In the absence of any evidence tending to show that possession or use of a 'shotgun having a barrel of less than eighteen inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." *Id.* at 178.

Placing this pronouncement in historical context, the Court went on to say:

"The Constitution as originally adopted granted to the Congress power - 'To provide for the calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions; to provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States

respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.' [Art. 1, § 8, cl. 15, 16.] With obvious purpose to assure the continuation and render possible the effectiveness of such forces the declaration and guarantee of the Second Amendment were made. It must be interpreted and applied with that end in view.

"The Militia which the States were expected to maintain and train is set in contrast with Troops which they were forbidden to keep without the consent of Congress. The sentiment of the time strongly disfavored standing armies; the common view was that adequate defense of country and laws could be secured through the Militia - civilians primarily, soldiers on occasion.

"The signification attributed to the term Militia appears from the debates in the Convention, the history and legislation of Colonies and States, and the writings of approved commentators. These show plainly enough that the Militia comprised all males physically capable of acting in concert for the common defense. 'A body of citizens enrolled for military discipline.' And further, that ordinarily when called for service these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time." *Id.* at 178-79.

Thus the Court in *Miller* definitively related the second amendment's right to keep and bear arms to the states' right to maintain a well regulated militia as opposed to any individual right to possess weapons such as a sawed-off shotgun. The Court subsequently cited *Miller* for the concept that "the Second Amendment guarantees no right to keep and bear a firearm that does not have 'some reasonable relationship to the preservation or efficiency of a well regulated militia.'" *Lewis v. United States*, 445 U.S. 55, 65, fn 8, 100 S.Ct. 915, 925, 63 L.Ed.2d 198, 209 (1980).

While not bearing directly on your question, we acknowledge the related issue raised by the *Miller* decision of whether the second amendment precludes prohibiting the possession by individuals of weapons which do have "some reasonable relationship to the preservation or efficiency of a well regulated militia." We believe that the reasoning expressed in *United States v. Hale*, *supra*, is controlling on this issue:

"The Supreme Court has not addressed a Second Amendment issue since the *Miller* decision. *Cases v. United States*, 131 F.2d 916 (1st Cir. 1942), *cert. denied*, 319 U.S. 770, 63 S.Ct. 1431, 87 L.Ed. 1718 (1943) remains one of the most illuminating circuit opinions on the subject of 'military' weapons and the Second Amendment. *Cases* states that 'under the Second Amendment, the federal government can limit the keeping and bearing of arms by a single individual, as well as by a group of individuals, but it cannot

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prohibit the possession or use of any weapon which has any reasonable relationship to the preservation or efficiency of a well-regulated militia.' *Id.* at 922. After carefully examining the principles and implications of the then recent *Miller* decision, the First Circuit concluded that the existence of any 'reasonable relationship to the preservation of a well regulated militia' was best determined from the facts of each individual case. *Id.* Thus, it is not sufficient to prove that the *weapon* in question was susceptible to military use. Indeed, as recognized in *Cases*, most any lethal weapon has a potential military use. *Id.* Rather, the claimant of Second Amendment protection must prove that his or her *possession* of the weapon was reasonably related to a well regulated militia. Where such a claimant presented no evidence either that he was a member of a military organization or that his use of the weapon was 'in preparation for a military career', the Second Amendment did not protect the possession of the weapon. *Id.*

"Since the *Miller* decision, no federal court has found any individual's possession of a military weapon to be 'reasonably related to a well regulated militia.' 'Technical' membership in a state militia (e.g., membership in an 'unorganized' state militia) or membership in a non-governmental military organization is not sufficient to satisfy the 'reasonable relationship' test. *Oakes*, 564 F.2d at 387. Membership in a hypothetical or 'sedentary' militia is likewise insufficient. See *Warin*, 530 F.2d 103." 978 F.2d at 1019-20. (Emphasis original.)

Federal circuit court decisions have uniformly cited *Cruikshank*, *Presser*, and *Miller* as upholding the propositions that the second amendment is a limitation only on the power of the federal government as a protection for the states in the maintenance of their militia organizations against possible encroachments by the federal power, is not applicable to the states and thus is not a limitation on the power of the states, and is a guarantee of a collective right of the people to keep and bear arms rather than an individual right. See *Cases v. United States*, 131 F.2d 916 (1st Cir. 1942); *United States v. Kozerski*, 518 F.Supp. 1082 (D. N.H. 1982), aff'd 740 F.2d 952 (1st Cir. 1984); *United States v. Tot*, 131 F.2d 548 (3rd Cir. 1942); *Eckert v. City of Philadelphia*, 329 F.Supp. 845 (E.D. Pa. 1971), aff'd 477 F.2d 610 (3rd Cir. 1973); *United States v. Johnson*, 497 F.2d 548 (4th Cir. 1974); *Love v. Peppersack*, 47 F.3d 120 (4th Cir. 1995); *United States v. Johnson*, 441 F.2d 1134 (5th Cir. 1971); *United States v. Warin*, 530 F.2d 103 (6th Cir. 1976); *Quilici v. Village of Morton Grove*, 532 F. Supp. 1169 (N.D. Ill., E.D. 1981), aff'd 695 F.2d 261 (7th Cir. 1982); *United States v. Hale*, 976 F.2d 1016 (8th Cir. 1992); *Fresno Rifle and Pistol Club, Inc. v. Van de Kamp*, 746 F. Supp. 1415 (E.d. Ca. 1990), aff'd 965 F.2d 723 (9th Cir. 1992); *United States v. Oakes*, 564 F.2d 384 (10th Cir. 1977).

With the exception of the few decisions referenced previously, state court decisions addressing the second amendment have been in accord with federal court decisions in

holding that the second amendment is a limitation only on the power of congress and the national government, that it has not been incorporated into the fourteenth amendment and made applicable to the states, that it is not an individual but a collective right, and that it is not a right to keep and bear arms which do not have some reasonable relationship to the preservation or efficiency of a well regulated state organized militia. The state court cases cite varying combinations of *Cruikshank*, *Presser*, *Miller* as well as various federal circuit and district court cases referenced above. For a listing and summary of many of those cases see Annot., 37 A.L.R. Fed. 696 (1978).

It appears abundantly clear that state regulation concerning an individual's possession of concealed firearms is not precluded by the second amendment. In an early case the United State's Supreme Court recognized in dictum that "the right of the people to keep and bear arms (art. 2) is not infringed by laws prohibiting the carrying of concealed weapons." *Robertson v. Baldwin*, 165 U.S. 275, 281, 17 S.Ct. 326, 329, 41 L.Ed. 715, 717 (1896), and more recently, as one federal district court succinctly summarized:

"Having demonstrated, as we have, that the Second Amendment stays the hand of the National Government only, we conclude that the Constitution has left the question of gun control to the several states." *Fresno Rifle and Pistol Club, Inc.*, 746 F. Supp. at 1419.

Cases which have specifically held that the second amendment does not prevent a state from prohibiting the carrying of concealed weapons include *Pencak v. Concealed Weapon Licensing Board*, 872 F.Supp. 410 (E.D. Mich. 1994) (second amendment claim of deprivation of right to carry concealed weapon not viable); *Jones v. City of Little Rock*, 862 S.W.2d 273 (Ark. 1993) (state may as matter of police power place appropriate restrictions on one's right to bear arms); *Brown v. City of Chicago*, 250 N.E.2d 129 (Ill. 1969) (regulation which does not impair the maintenance of the State's active, organized militia is not in violation of either the terms or the purposes of the second amendment); *State v. Goodno*, 511 A.2d 456 (Me. 1986) (second amendment does not limit authority of state legislature, operates to restrict power of Congress only); and *Moore v. Gallup*, 45 N.Y.S.2d 63 (N.Y. 1943) (second amendment limits exertion of power of congress and national government not state).

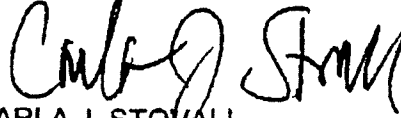
We conclude that the Kansas prohibition against carrying a concealed firearm on one's person except when on one's own land, abode or fixed place of business, as provided by K.S.A. 21-4201(a)(4), does not violate the second amendment to the United States



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constitution. Thus, in response to your question, the second amendment to the United States constitution does not provide the citizens of Kansas with a right to carry a concealed weapon.

Very truly yours,



CARLA J. STOVALL  
Attorney General for Kansas



Camille Nohe  
Assistant Attorney General

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