

Approved: 4-9-97
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:00 a.m. on February 19, 1997 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Mr. James S. Brady, Washington, D.C.
Mr. Joseph P. Sudbay, Director of State Legislation, Handgun Control, Inc.,
Washington, D.C.
Major Steve Culp, City of Kansas City, Kansas
Mr. Jim Kaup, Topeka City Council
Ms. Becky Hinkle, Shawnee
Mr. Bruce Dimmitt, Overland Park
Mr. Orville E. Johnson, Topeka

Others attending: See attached list

Senator Oleen advised that the committee had heard six hours of testimony on two previous days from both proponents and opponents on the bills scheduled for hearing today. She said time did not permit for all conferees to be heard at that time and the hearings were being continued today. She explained that the same format would be followed, dividing equally the time allotted between proponents and opponents of the issue. Senator Oleen advised that copies of testimony would be available upon request at the conclusion of the hearings today.

SB 21: **Licensure to carry certain concealed weapons**
SCR 1606: **Proposition to amend article 15 of the constitution of the state of Kansas by adding a new section, relating to certain weapons**

Mr. James S. Brady, Washington, D. C., accompanied by Mr. Mr. Joseph P. Sudbay, Director of State Legislation, Handgun Control, Inc., Washington, D.C., appeared in opposition to **SB 21 (Attachment #1)**. Mr. Brady told the committee he was testifying today because he wanted everyone in Kansas to be aware that what the gun lobby is trying to do with concealed weapons is a crime. He said the gun lobby wants more guns on the streets, and more concealed weapons on the streets would result in more violent crimes, not less.

Mr. Brady referenced the study done by Dr. John Lott and pointed out problems other researchers had with Dr. Lott's work; specifically, that there was no credible evidence to support the idea that permissive concealed-carry laws reduce violent crime. He referenced studies by the Carnegie Foundation which discounted Dr. Lott's study.

Mr. Brady stated that gun manufacturers would be the beneficiaries if concealed carry legislation is approved. He noted that passing loose concealed gun laws contradicts the advice of law enforcement who, he maintained, strongly oppose the measure.

Mr. Brady related his personal experience of being shot by an individual with a concealed weapon, pointing out he was surrounded by the most highly trained law enforcement professionals in the world who could not prevent it from happening. He cited also the negative message that passage of a concealed carry measure would send to children, noting that far too many children already have access to and use firearms. He pointed

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 313-S of the Statehouse, at 11:00 a.m. on February 19, 1997.

out also that when a firearm is involved it is more likely to result in death, and he urged lawmakers to do all they can to keep guns out of the hands of children.

Senator Harrington asked who had paid for Mr. Brady's trip to Topeka. Mr. Brady responded the Center for Handgun Control, and his purpose for coming was to keep firearms out of the wrong hands.

Senator Becker inquired about the confidence level in the accuracy of data base records on individuals who do not pay child support or who have a mental condition. Mr. Sudbay acknowledged that this was a problem in other states and, because they were unable to get the necessary information, those states elected not to proceed.

Senator Oleen recalled information provided in testimony last week regarding the criminal justice information system which ranked Kansas 44th in the nation in its ability to access criminal history information. She pointed out this was a real concern because one of the strengths of the proposed legislation was to restrict the carrying of concealed weapons to law abiding citizens. Mr. Sudbay was asked if, in his work, he had found that other states were able to assure that law abiding citizens were the ones who are issued permits. He replied that they could not give that assurance. He cautioned members of the committee not to assume that felons do not apply for permits because, he said, they do, and people with licenses commit crimes.

Major Steve Culp, a sixteen year veteran with the Kansas City, Kansas, Police Department and currently Director of Investigations with that agency, appeared on behalf of Mayor Carol Marinovich of the City of Kansas City, Kansas, and read into the record a letter from Mayor Marinovich expressing opposition to a change or expansion of the state's current concealed weapons laws (Attachment #2). Specifically, the letter stated that she and the City Council 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. It further expressed strong opposition to preemption of the ability of cities in Kansas to regulate firearms.

Mr. Jim Kaup, representing the City of Topeka, appeared in opposition to **SB 21**, and he indicated the City had some concerns with the language of **SCR 1606** (Attachment #3). Mr. Kaup stated that **SB 21** is both a threat to public safety and law enforcement officer safety. He acknowledged that **SB 21** is better than **HB 2159** because of the qualifications and licensing procedure in **SB 21** that must be met in order to be issued a permit, but he said the higher standards only mask the flaws the two measures share.

Mr. Kaup told the committee the City's strongest objection to **SB 21** comes from the belief that the bill preempts local lawmaking authority. He said the critical point is that the state can pass a law to establish a license to carry a concealed weapon without preempting local authority to regulate the same subject. He maintained the two issues are independent. He summarized the points of Home Rule and asked the committee to listen to the concerns of local government because that entity would feel the consequences of any legislation passed.

Mr. Kaup asked the committee to report unfavorably **SB 21**. If passed, he asked that it be amended to expressly recognize the continued applicability of Home Rule to the subject of concealed carry.

Senator Oleen noted that time had expired for testimony from opponents on the bills and turned to proponents for testimony.

Ms. Becky Hinkle, Shawnee, addressed the committee as a proponent of **SB 21** and in opposition to **SCR 1606** (Attachment #4). Ms. Hinkle recounted personal experiences involving firearms. She told about acquaintances and family members who were responsible citizens and whose lives were taken by irresponsible members of society. She stated that all have rights which are guaranteed and protected by the constitution but some should lose those rights because they break the law. Ms. Hinkle added that law abiding citizens have the right to defend themselves and she asked the committee to allow her the right to defend herself by favorably reporting **SB 21** along with **HB 2159**.

Mr. Bruce Dimmitt, a registered independent lobbyist, Overland Park, appeared in support of **SB 21** (Attachment #5). Mr. Dimmitt told the committee his main interest was to guarantee second amendment rights, and he said that those rights cannot be achieved if individuals do not have the right to protect themselves.

Senator Oleen cited an Attorney General Opinion issued February 7, 1997, which held that 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. She asked Mr. Dimmitt if he were aware of that ruling and indicated she would make a copy of the opinion available to him.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 313-S of the Statehouse, at 11:00 a.m. on February 19, 1997.

Mr. Orville E. Johnson, Topeka, addressed the committee in support of **SB 21** (Attachment #6). Mr. Johnson testified that freedom of choice includes freedom to choose defending one's self and accepting the consequences, or pleading and begging for mercy from an assailant. Mr. Johnson cited instances in which his wife was terrorized and asked the committee to provide protection for law abiding citizens by favorably considering **SB 21**.

Senator Oleen announced that the time allotted for testimony from opponents had elapsed and closed the hearings on **SB 21** and **SCR 1606**.

Additional written testimony entered into the record in support of concealed carry legislation:

Ms. Lisa Larson, Overland Park (Attachment #7)
Scott G. Hattrup, Attorney, Overland Park (Attachment #8)
F. R. "Woody" Edgington, Overland Park (Attachment #9)
Rockwell Greene, Lenexa (Attachment #10)
James J. Fotis, Executive Director, Law Enforcement Alliance of America, Falls Church, Virginia (Attachment #11)
Lynwood R. Yarbrough, Leawood (Attachment #12)

Additional written testimony entered into the record opposing concealed carry legislation:

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 and the Topeka Chamber of Commerce (Attachment #13)
Kansas State Nurses Association, Topeka (Attachment #14)
The Reverend Alden R. Hickman, Topeka (Attachment #15)
Mrs. Enid Hickman, Topeka (Attachment #16)
Oren K. Skiles, Chief of Police, Arkansas City (Attachment #17)
R. G. Doran, City Manager, Garnett (Attachment #18)
Phyllis Todd, Topeka (Attachment #19)
Mr. Steven L. Stover, Manhattan (Attachment #20)

Additional written testimony entered into the record taking no formal position:

Kansas Safe Kids Coalition, Topeka (Attachment #21)
Kansas Advocacy & Protective Services, Inc. (Attachment #22)
Kansas State Council of Emergency Nurses Association (Attachment #23)
Kansas Fraternal Order of Police State Lodge (Attachment #24)

The meeting adjourned at 12:20 p.m. The next meeting is scheduled for February 20, 1997.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: Feb. 19, 1997

NAME	REPRESENTING
Kenneth C. Cummings, MD	self - supporting CCW legislation
Rosemary N. Cummings	myself - I support CCW legislation
Jamie K. Cheatum	self - I support CCW legislation ^{PRO HB2159}
Jan Eby	SWARM
Jim Eby	SWARM
R. M. Eby	SELF
WARREN H. MOBERLY JR	MYSELF
Robert H. H.	myself
Judith Morrison	SWARM
Ken Morrison	Self support CCW legislation
Ken Johannes	Self
Olin B. Stallen	Self.
Andy Wollen	Self.
R. F. Taylor	SWARM
Pat Taylor	SWARM
Wm. J. Bingham	Swarm,
Dorrie Lacey	Ks Children's Service League
TK Shively	KANSAS LEGAL SERVICES
Lay Youngman	Self

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: 2-19-97

NAME	REPRESENTING
Rebecca Atwood	Washburn
Susan Mahoney	Sen. Salisbury
Tran Samson	self
Aleedy Guss	
James Davis	Koch Crime Commission
Spencer P. St. H.	" "
John C. O'Leary	Self
Janice Nelson Emball	senator Morris
Roland Prothro	Self
Donald J Crowder	Self
JIM KEATING	KANSAS SAFE KIDS COALITION
HERB TAYLOR	Kansas Sportsman's Alliance
ROBERT HODGDON	SELF.
Suzanne Bateman	Self
Katharine Wickert	USA
Betty & Jim Chappell	Constitution
Keith Hapton	Self
Vernon L. Berens	Ellis Co.
Wendy Morris	Citizens for Self-Defense

Statement of James S. Brady
Kansas Senate
Federal and State Affairs Committee
February 19, 1997

Thank you Senator Oleen and members of the Federal and State Affairs Committee for allowing me the opportunity to speak before you today.

It's great to be in Topeka. I am here today because I want everyone in Kansas to know that what the gun lobby is trying to do here in the State House with concealed weapons is a crime.

The gun lobby wants more guns on our streets -- and allowing virtually unrestricted carrying of loaded, concealed weapons will do just that. This is NOT "anti-crime" -- but it is "anti-common-sense". More concealed weapons on our streets means more violent crime, not less.

I heard John Lott was here the other day touting his study on this subject. Last December, The Center to Prevent Handgun Violence invited Dr. Lott to present his case along with other researchers who had serious problems with his work. Let me just read to you two quotes from the other members of the panel. Georgetown University Professor Jens Ludwig stated "There is no credible evidence to support the idea that permissive concealed-carry laws reduce violent crime." Daniel Nagin, from Carnegie Mellon said of the Lott study, "The results are simply too fragile to make policy on." I'm no academic, I'm an advocate and I admit it. It seems to me that John Lott has shifted from being an academic to being an advocate.

There is no need to put more guns on our streets if it is just to please the special interest gun lobby and those who profit from making guns. A chief gun lobbyist was recently quoted in the **Wall Street Journal** saying that gun makers should send her a basket of fruit for creating a new market for concealable guns through these CCW laws. If the point of these laws is to create new markets for gun manufacturers, then proponents should be clear about that. It looks to me like gun makers are the real beneficiaries.

Logic tells us that if guns made us safer, America would be the safest place on earth. For years, opponents of reasonable restrictions on firearms focused their wrath on New York City claiming it as the poster city for gun laws not working. Now, through a combination of community policing and federal, state and local gun laws, New York has seen a dramatic decrease in violent crimes, especially those committed with guns. You will not hear anyone claim that the decrease in New York is because of more guns on the streets. It is because there are fewer guns on the street.

People across the country are realizing that with the public's support, law enforcement officers can do the job of preventing crime. And law enforcement needs our support. Passing these loose concealed gun laws contradicts the advice of law enforcement -- the men and women in blue across Kansas -- the ones on the front lines -- who strongly oppose this dangerous measure. I consider it a privilege to work

with and be on the same side of the fine men and women of law enforcement who risk their lives for us every single day.

I can tell you from personal experience that carrying a gun does not guarantee safety. My former boss, President Ronald Reagan, two dedicated law enforcement professionals and I were shot by a gunman with a concealable weapon. At the time, the President and I were surrounded by the most highly trained law enforcement professionals in the world. Their whole job was to prevent just that kind of incident from occurring, but it happened. So it really scares me to think of thousands and thousands of citizens walking around armed to the teeth -- looking to shoot at any perceived danger and more importantly, somehow thinking they are safe because of their gun. Is this the kind of Kansas you really want -- or need? I don't think so, your police don't think so. Only the special interest gun lobby thinks so. And I don't think anyone truly believes they're looking out for our best interests.

I have one final point before I conclude and it is about our children. I reject the mantra from the gun lobby that "An armed society is a polite society." Frankly, I think we are a far better society than that. But what really scares me about that mentality and these concealed gun laws is what this says about our society and what kind of message we are sending to our children. What are our kids supposed to think when their elected officials buy into the notion that only by packing a gun can one be safe in our society? Already far too many children have access to and use firearms.

It's bad enough that we lose 16 kids a day to gun violence and that many, many more are wounded. We don't need want them to believe that guns provide solutions to every problem. The concealed guns campaign only reinforces the notion that one needs to pack a piece to be safe in our society. The evidence shows that firearms are the most lethal form of injury -- especially for children. When a firearm is involved, it is more likely that there will be a death. Elected officials at all levels, local, state and federal, have to do everything they can to keep guns out of the hands of our kids.

Senators, you know that the people of Kansas are watching you. You have seen the polls. From my years in politics I can tell you that 73% of the public rarely agrees on the same thing. Those people deserve to be represented in this state house. Please stand with your law enforcement officers -- the men and women in uniform -- and the people of Kansas. It's truly a matter of life or death.

Thank you.



Executive Chamber
One McDowell Plaza

City of Kansas City, Kansas

Carol Marinovich, Mayor



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

February 11, 1997

Senator Lana Oleen
Chairperson of Senate Federal and State Affairs Committee
300 SW 10th Avenue Room #313-S
Topeka, Kansas 66612-1504

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

Dear Senator Oleen
and members of the Senate 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

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: #2



CITY OF TOPEKA

City Council
215 E. 7th Street Room 255
Topeka, Kansas 66603
Phone 913-308-3710

**LEGISLATIVE TESTIMONY
CITY OF TOPEKA
SENATE BILL 21
SENATE CONCURRENT RESOLUTION 1606**

TO: Senate Committee on Federal and State Affairs
FROM: Jim Kaup, City of Topeka
DATE: February 19, 1997
RE: **SB 21 and SCR 1606 -- Carrying Concealed Weapons**

The City of Topeka appears in opposition to SB 21. While not in opposition to SCR 1606, the City does have some concerns regarding the proposal to place this language before the voters.

For many years the City has appeared in opposition to legislation which would liberalize current law regulating the carrying of hidden guns into public places. Because we have consistently opposed bills that would put more guns on the street, and believe that would be the logical result of SB 21, we appear today in opposition to SB 21.

SB 21 is both a threat to public safety and law enforcement officer safety and is also an unjustified and harmful intrusion by the State upon a subject which both the State and its local governments have, for over 100 years, shared lawmaking powers -- and public safety responsibilities.

SENATE BILL 21

I. STATE LICENSURE TO CARRY CONCEALED FIREARMS

SB 21 proposes to create a statutory right to carry concealed handguns. This right would be held by any Kansan licensed by the State to carry that weapon. SB 21 provides a lengthy and detailed set of qualifications which a Kansan must meet in order to qualify for licensure. Certainly, the qualifications, and the licensing procedure, proposed by SB 21 are far superior to those set out in HB 2159, now before the House Federal and State Affairs Committee. However, the higher standards serve only to better mask the flaws those bills share.

Under SB 21 the KBI would license any Kansas resident of 21 years of age who is a non-felon, has not been charged with violations of the State's criminal use of weapons law (K.S.A. 21-4201 *et seq.*), is of sound mind, is not chemically dependent and has not run afoul of other laws pertaining to the payment of property taxes, delinquency in child support, etc.

Topeka, like many other cities in Kansas, has a local law which parallels the current State law crime of criminal use of weapons. (Ordinance No. 16664). The State law, and the Topeka law, generally make the carrying of a concealed weapon a crime. SB 21 proposes to (1) allow a person upon licensure, to carry concealed weapons into most places in this state and (2) apparently do so notwithstanding local laws prohibiting such conduct. It is the silence of SB 21 with respect to its effect upon local laws on the same subject, like Ordinance No. 16664, which the City finds most objectional. That concern is addressed below, under the heading of "II. Home Rule - State Preemption".

Topeka will not offer testimony today regarding how many of the 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 handguns concealed on their person. We do believe it is reasonable to assume SB 21 would put more guns on the street than there now are.

This Committee has heard again this year the objections law enforcement officers and agencies have to this liberalizing of the gun 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 primarily local government which will feel the effects of SB 21. Local governments provide the vast majority of law enforcement. Topeka alone has over 270 law enforcement officers -- by comparison the Kansas Highway Patrol has approximately 600 sworn officers. Kansas 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 most directly feel the consequences of this bill. We believe any proposal which

would result in more guns being carried into public places is a threat to the public's safety. That point speaks for itself.

II. HOME RULE -- STATE PREEMPTION OF LOCAL AUTHORITY

While the threat it poses to public safety is by itself adequate reason to oppose SB 21, the City's strongest objection to this bill comes from our belief that the bill preempts local lawmaking authority. 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.

The City's Policy Statement also supports the current policy position of the League of Kansas Municipalities that:

"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."

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.

The Kansas Home Rule Constitutional Amendment does not prohibit the legislature from enacting laws relating to local affairs and government. Obviously, the State of Kansas and the City of Topeka have for many years both legislated on this subject. In the event that conflict ever arises between local law and state law on the same subject, the rule is that the state law prevails. **The critical point here is that the State can pass a law to establish a state license to carry a concealed weapon without preempting local authority to regulate the same subject. The two issues are independent, although proponents of concealed carry usually work hard at linking them.**

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

Regulation of firearms by cities 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 City 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 the basic principle 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.

C. State Preemption of Local Authority by SB 21.

Unlike its counterpart on the House side (HB 2159), SB 21 does not contain language expressly preempting the exercise of local authority to pass laws on the subject of concealed carry. Nonetheless, a reading of SB 21 can be made that it does preempt local lawmaking authority, thereby invalidating existing city ordinances and county resolutions and preventing new local laws from being enacted on the subject of concealed carry. Certainly we would expect, upon passage of SB 21 in its current form, a legal challenge to Ordinance 16664, and a challenge to any future proposals to pass similar laws. We believe that SB 21, in its present form, would invalidate at least those local laws which prohibit carrying concealed guns.

It should be noted that while state law-local law conflict can sometimes be avoided by a city's or county's use of Home Rule to "exempt from" a state law, such does not appear to be possible in the case of SB 21. SB 21 does not convey powers or place duties upon a city or county. It is a bill which proposes to create a statutory right for Kansans to obtain a license from the State of Kansas. A local law, passed under the authority of Home Rule, which denies a licensee the exercise of rights

under that license while within the city or county's jurisdiction would appear to be an improper exercise of home rule, in "conflict" with State law, and therefore invalid.

Probably the "best case" for a city or county, upon passage of SB 21, would be recognition of the ability to pass local laws which complement or supplement the state concealed carry law. For example, local laws which identify premises upon which a person is not to carry a concealed gun, supplementing the short list of such premises found in SB 21.

Just to confirm that even some limited power of Home Rule survives SB 21, the following language should be added to SB 21:

Section _____. Nothing in this act is intended to prevent the enactment or enforcement of additional laws, passed by cities or counties, on the same subject which are not in conflict with the provisions of this act.

D. LOCAL PREEMPTION AND THE TEXAS "MODEL".

SB 21 is drafted almost entirely from the Texas concealed carry law. We understand that the history of that law with respect to preemption was that proponents agree to a bill which did not expressly preempt local lawmaking authority. Proponents of preemption then turned around and are presently working to pass Texas Senate Bill 204 to amend Section 32 of the Texas law -- which is also Section 32 of SB 21 -- to read as follows:

SECTION 9. Section 32, Article 4413 (29ee), Revised Statutes, is amended to read as follows:

Sec. 32 RIGHTS OF GOVERNMENTAL ENTITIES AND EMPLOYERS.

(a) The governing body of a political subdivision or agency of the state may not prohibit a person who holds a license under this article, other than an employee of the subdivision or agency, from carrying a concealed handgun on the subdivision's or agency's premises. In this subsection, "premises" means a building, portion of a building, driveway, parking area, or other property.

(b) This article does not prevent or otherwise limit the right of a public or private employer to adopt an employment policy that precludes employees [~~prohibit persons~~] who are licensed under this article from carrying a concealed handgun on the premises of the business.

The City would anticipate a similar effort in Kansas to expressly preempt local authority, if SB 21 becomes law.

The prospects of such a two-stage preemption strategy makes amendment of SB 21 -- to expressly retain local lawmaking authority -- all the more imperative.

III. OTHER ISSUES

A. "PREMISES" OF THE CITY; SECTION 32.

The City requests clarification of Section 32, regarding the City's ability to prohibit the carrying of concealed weapons on its "premises". In its current form the bill clearly allows "employers" to limit the carrying of a hidden gun on the "premises of the business". While "persons", as used in Section 32, is not limited to employees, there does seem to be a question as to whether that term applies to any State licensee -- employee or not. The language should be clearer on this point. Furthermore, in the case of cities the "business" is at least all public property within the city limits and arguably all property, public and private, within the city limits. Does Section 32 enable a city to tell not only its employees that they cannot carry weapons into city parks, city hall, etc., but also any member of the public?

B. PREMISES; SECTIONS 32 AND 37.

SB 21 does select a few locations where the proponents apparently feel the right to carry a concealed gun would be outweighed by the risk created by the presence of those guns to jailers, medical personnel, the clergy, and a few others. We would note that any statutory listing is certain to create confusion for both licensees and the general public. A licensee will be expected to understand that he or she may take a hidden gun into a fast food restaurant, but not a restaurant holding a liquor license. Lawful to carry it into a pre-school, a day care, an elementary school, a high school or a university campus, but not into a hospital or nursing home. In one of many examples of the confusion the wording of SB 21 carries with it, maybe Section 32 makes it unlawful for a licensee to carry a concealed gun into a city hall, onto a city park, or into a municipal auditorium. It is presumptuous for the legislature to say it knows better than a locally-elected city or county governing body as to which local premises a person should or should not be allowed to carry a concealed gun. **Therefore, we request SB 21 be amended at Section 37, (p.22, line 12) to add "(7) or any other premises, property or structure when so designated by ordinance of a city or resolution of a county."**

In the alternative SB 21 should be amended to add the following places not now on the list found in Sections 31 and 37:

- Funeral establishments
- City halls and county courthouses
- Medical clinics, blood banks and all other medical facilities
- Mental health facilities and mental retardation/development disability facilities, including state hospitals, community centers, group homes and crisis homes
- Day care, pre-school, elementary and secondary schools, whether privately or publicly owned or operated

Publicly owned or operated cultural or recreational facilities such as city parks and playgrounds

Safe houses for victims of domestic violence or child abuse, whether publicly or privately owned or operated

Half-way houses for persons previously incarcerated in correctional facilities

C. PENALTY PROVISIONS; SECTIONS 12 AND 13.

Sections 12 and 13 of SB 21 provide that if a licensee fails to show a law enforcement officer his or her license, as required by Sec. 6(h), such is a class B misdemeanor and grounds for license suspension or revocation. Section 12 and 13 then refer to convictions of licensees for violations of K.S.A. 21-4201 et seq., the criminal use of weapons law. We suggest an amendment such that any violation of SB 21 be grounds for license suspension or revocation.

IV. COMMITTEE ACTION REQUESTED ON SB 21.

A. The City opposes SB 21 and respectfully 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 future requests from cities for new laws necessary to address local situations and concerns -- local problems which today are handled by Home Rule.

B. If the Committee believes SB 21 should be passed notwithstanding the risks to the public resulting from placing more firearms on the streets, we request SB 21 be amended as requested. Most importantly, amend SB 21 to expressly recognize the continued applicability of Home Rule to the subject of concealed carry.

SENATE CONCURRENT RESOLUTION 1606

The City has some concerns as to the consequences of a referendum on the ballot question proposed by SCR 1606.

On its face, SCR 1606 appears to simply place in the Constitution that which is already statutory law. It would appear, by doing so, to also prevent the legislature from expanding or contracting those categories of persons who may carry concealed weapons -- without again amending the Constitution.

There is no recognized constitutionally - based, individually-held right for any Kansan to carry a weapon, whether concealed or unconcealed. SCR 1606, if approved by the voters, would place within the Constitution the first such right. An affirmative vote by Kansans would not only, thereby, restrict the ability of the State legislature to determine who may appropriately carry concealed weapons, it would appear to preempt local governments from adopting and enforcing concealed carry laws with respect to those persons covered by the constitutional amendment.

The City also notes that the other possible outcome -- the voters' rejection of the proposed constitutional amendment -- holds the potential for a confused message. Would it mean the public prefers no recognition in the Constitution of any right of individual Kansans to carry firearms? Or just no constitutional right to carry concealed firearms? Or would its defeat be susceptible to a "spin" that the voters rejected it because they want a broader constitutional amendment applicable to larger numbers of Kansans?

While the City has these concerns as to SCR 1606 we are respectful of the motivation of the sponsor and respectful of his belief that the voters of Kansas should decide directly the issue of concealed carry.

Becky Hinkle
24640 W. 55th
Shawnee, KS 66226

Honorable Committee Members

I appear before you today, representing only myself. I am opposed to Senate Bill 1606 which will take away my right to defend myself. I support legislation 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 Senate Bill 21 along with House Bill 2159, to form a fair bill.

Thank you for your time and consideration.

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: #4

STATEMENT BY BRUCE DIMMITT
Before Kansas Senate Federal & State Affairs Committee
February 19, 1997

COMMENTS ON SENATE BILL No. 21

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 affiliated with a number of organizations concerned about various issues and am registered as an Independent Lobbyist to work on a number of issues about which I have a concern or about which citizens and groups 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

Kansas Senate Federal and State Affairs Committee

Feb. 19, 1997

Proponent of SB 21

Orville E. Johnson
2401 SW Bradbury
Topeka, Kansas 66611

Four letter "F" Word

Separate logic from fears, facts from fiction, exaggerated for the sake of excitement.

What do you do when someone who has threatened to "mess you up" is outside with a sawed off shotgun?????? AND 911 is busy!!!

Freedom of choice includes freedom to choose defending ones self, and accepting the consequences, or pleading and begging for mercy from an assailant. I for one do not beg!!!

The Supreme Court has ruled that the police have no duty to protect us. They are little more than statistical gathering investigators.

You insure your home and your car because of their economic value.

Your life has value above economic. New York life can not help you there, but for many of us the presence of a firearm has insured that we were not victims.

I was a Scout. Be prepared. Be prepared for anything, for school, for job, for flat tire, for fire, for tornadoes, and for drug and alcohol crazed members of a growing sub-culture.

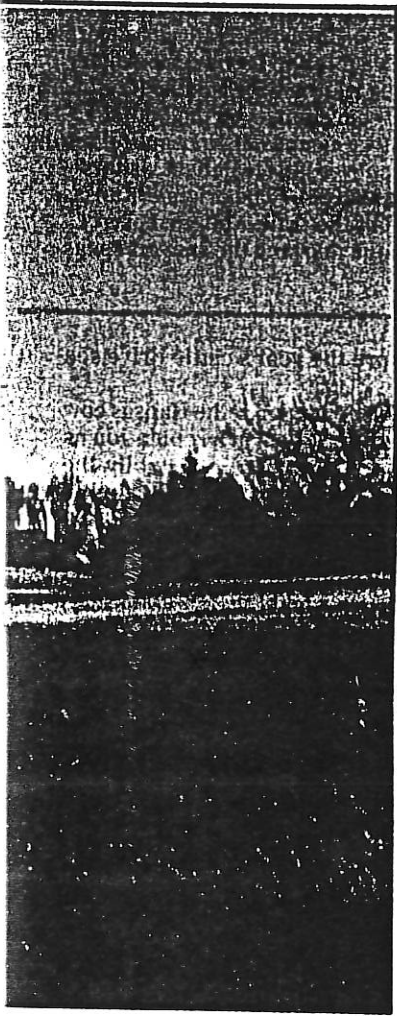
Here in Topeka we are living in a lawless society. We have 10,000 unserved warrants, AND WE HAVE FOUR MURDERERS STILL ON THE LOOSE. Less than 10% of the people are committing over 85% of the crime. The police know the bad guys by their first names.

Doctors, lawyers, judges, geologists and construction workers have all confessed carrying concealed weapons to me, I suppose because I am a rifle instructor and I teach Hunter Safety. Why not give these otherwise law abiding citizens a legal way to insure their safety????? THEY ARE EDUCATED AND THEY ARE NOT GOING TO LEAVE THEIR FATE UP TO CHANCE!!!

We need uniformity in the ability to carry across the state. In Topeka, the only place s that you can have a loaded firearm is your home or your place of business. Leaving a firearm unattended at either place can present problems, but transporting it to and from home and work can put one in danger of becoming a criminal.

Of the gang that has terrorized my wife, and owned at least two sawed off shotguns, one has now been shot to death. There is still one sawed off shotgun out there in the hands of one of these sadistic animals. PLEASE GIVE US SOME PROTECTION.

Truth from fiction



Murders never eclipsed five in a year in the booming cowtowns, and lawmen Hickok and Earp's work was often less than myth-making.

Trail namesake Jess Chisholm died in 1868 without realizing the old route he had used for two years as a commercial trail would become one of the most storied names in the annals of the American West.

Caldwell didn't have much good luck with the town's rich and famous citizens during cowtown days, 1880-1885: The town's first attorney was hanged for horse stealing; a well-liked city marshal was killed following the robbery of a bank in a neighboring town; and one outlaw was shot 13 times before being subdued, living to see his trial date — on a murder charge.

West of Clearwater, a 22-year-old school teacher, Abbie Bright, made this entry in her journal on June 4, 1871: "Every week, 7 to 10 thousands of Texas cattle are driven north over the trail. If the cattle stampede, and don't

pression was worn deep in the 19th century.

Truth
continued on page 2-B

Truth

continued from page 1-B

want to cross the (Ninnescah) River, the herders yell and fire off their revolvers. Sometimes we hear them here, and it sounds as I suppose a battle does. It is the cattle that keep the trail worn so smooth."

Although Kansas Chisholm Trail towns had a reputation for violence and lawlessness, the real picture doesn't fit the old stereotype, historians have contended. The number of homicides in any given year, for instance, never topped five in any of the booming cowtowns.

Famous Kansas cowtown sheriffs and marshals were forced to deal with everyday job routines. Abilene City Marshal James Butler "Wild Bill" Hickok, who allegedly cleaned up the town in 1871, also served as the town's street supervisor; in Wichita, legendary lawman Wyatt Earp also had to repair potholes in streets and spruce up sidewalks

before the year's cattle drive season.

Few gunmen in the Kansas cowtowns have as bad a reputation as John Wesley Hardin. Actually, the teenager shot only one man in his life, according to Hardin's biographers. While in Abilene one night in 1870, he supposedly fired blindly through a hotel room wall to stop a man from snoring.

Cattle drives were no picnics for the working cowboys, reports Jeff Sheets, director of the Dickinson County Historical Museum. Trail drives typically lasted up to three months, and cowboys worked seven days a week moving cattle up the trail. Pay amounted to \$25 a month, and cowboys were in charge of herds ranging up to 3,000 head of cattle.

The biggest problems for cowboys on the trail, Sheets said, were lightning and prairie dog holes.

"A lot of the cowboys were young men who had no families in Texas," Sheets said, "They came up here, got paid, spent their money and left broke."

COWBOY DAYS TCT-1-30-97

OVER

TOPEKA CAPITAL JOURNAL

Lisa Larson
10106 W. 97th Terr.
Overland Park, Kansas 66212

Honorable members of the Committee. I am here to express my opposition to Senate Bill #1606 which would amend from our state constitution some of our God-given right to defend ourselves. We elect officials, like you, with the intent that you will protect our freedoms and rights, not legislate them away.

I am a homemaker and mother of three small girls, ages 2,5, and 7. I am heavily involved in school and church activities. I find myself attending activities and meetings in both the day and evening hours. Many times I am either getting my children in and out of the car along with packages and other items. I feel very vulnerable. As I become more aware of the crime around me and in my community, the less I feel protected.

We recently moved to what we felt was a peaceful neighborhood in a good area of Overland Park. Repeated criminal activity in my area now leaves me feeling defenseless against carjackings, rape and other personal assaults. I feel the need more than ever to protect myself and my children.

I personally was not raised around firearms. It is my intent now, however, to learn how to use them so I can take responsibility for my own safety as well as that of my children. I plan to become knowledgeable and proficient in the use and safety of firearms, in as well as outside my home.

As my husband and I put our girls to bed each night, we pray together as a family for safety, health and continued blessings. I now hope and pray that you, our elected officials, will respect our rights and freedoms to protect ourselves and our families. We must be able to protect ourselves from harm no matter if we are in or out of our homes.

As a mother, and we as a family, appeal to you to uphold our constitutional rights and support legislation which will protect our rights of self-defense. Senate Bill #21 will head us in the right direction to do that. Please protect our rights to defend ourselves.

Thank you.

Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #7

Rebuttal Testimony before the Kansas House &
Senate Federal and State Affairs Committees
in support of HB 2159 and SB21, February 19, 1997

Scott G. Hatstrup (*Univ. of Kansas*: B.G.S., 1989; J.D., 1995) is an attorney practicing in Overland Park, Kansas. He co-authored *A Tale of Three Cities: The Right to Bear Arms in State Supreme Courts*, which appeared in the annual state constitutionalism issue of the *Temple Law Review*, volume 68, page 1177, in fall 1995. This article was republished in volume 8, fall 1996, of the *Journal on Firearms and Public Policy*, an annual review of important articles regarding the right to bear arms published by the Second Amendment Foundation. Mr. Hatstrup has testified before the Kansas House Federal and State Affairs Committee during the 1995 and 1996 legislative sessions.

HB 2159 in its current form supports the concept of family and self-protection, and I therefore **support** it. SB 21, with an amendment to preempt cities and counties from exempting themselves after enactment, would also support these concepts. I **support** SB21 with such an amendment.

My testimony today is solely to rebut the myth that Kansas allows open carry of firearms for self-protection. It does not. The representative from the League of Kansas Municipalities stated last week that Kansas is not in the "gun control business." He left unstated, however, that some of the cities in Kansas are in the "gun control business."

In my research through a few city codes following the testimony last week, I discovered that some of the cities which sent representatives to testify against this bill last week misstated their own city's prohibition on carrying firearms.

For example, Kansas City, Kansas, in which District Attorney Tomasic stated one could carry a handgun openly for self-protection, actually prohibits that practice. Kansas City, Kansas Code § 22-106(a)(4) reads: "(a)Unlawful use of weapons is knowingly: (4) Carrying or possessing any pistol, revolver, . . . or other firearm on the person or in any land, water or air vehicle, loaded or unloaded, except when on the person's own land or in the person's own abode, fixed place of business or office." Notice the absence of the word "concealed" from this ordinance, which results in a blanket prohibition on firearms carry. This same ordinance does make an exception for transporting between one's place of business and home, or for repair, but requires that the firearm be unloaded, and locked away from access by the driver or passengers. KCK Code § 22-106(c)(4). A copy of this ordinance is attached for reference.

As another example, Leawood, Kansas, of which Police Chief Stephen Cox made similar statements regarding that city's policy towards firearms carried for self-protection, also prohibits open carry. Leawood City Code § 11-103 (a)(4) reads in pertinent part: "Unlawful use of weapons is knowingly: (4) Carrying any pistol, revolver or other firearm: (ii) openly or visibly on the person at any place open to public view; (iii) within any vehicle in transport unless the weapon is unloaded and in a case." The ordinance makes no transportation exceptions, as does the Kansas City, Kansas, ordinance. A copy of the Leawood ordinance is attached.

These ordinances are reminiscent of the Junction City, Kansas, ordinance found unconstitutionally overbroad, unreasonable and oppressive, which was struck down by the Kansas Supreme Court in *Junction City v. Mevis*, 226 Kan. 526 (1979). These ordinances present almost identical situations and would probably also be struck down on similar grounds.

Other cities prohibiting open carry of firearms include Lenexa, Shawnee, and Wichita, Kansas.

Lenexa Code § 3-9I-1 (A)(4) reads: “(A) Unlawful use of weapons is knowingly: (4) Carrying any pistol, revolver or other firearm on the person except when the person is on his land, in his dwelling or in his fixed place of business, or unless such pistol, revolver or other firearm is unloaded and in a case.” A copy of the ordinance is attached for reference.

Shawnee Code § 9.02.010(A)(4) reads in pertinent part: “(A) Carrying any pistol, revolver or other firearm on the person or in an occupied motor vehicle when an occupant of said vehicle has access to any such . . . firearm . . . except when the person is on their (sic) land or in their (sic) dwelling or fixed place of business.” This ordinance makes self-defense and target shooting exceptions, but only as to the prohibition on discharge of a firearm. Carrying a firearm within the city is still prohibited generally. A copy of the ordinance is attached for reference.

Wichita Code § 5.88.010(e) & (f) read: “(1) Unlawful use of a weapon is knowingly: (e) Carrying on one’s person any unconcealed, loaded firearm, except when on one’s land or in one’s abode or fixed place of business; (f) Carrying in any vehicle under one’s immediate control, any loaded firearm, except when on one’s land or in one’s abode or fixed place of business.” A copy of the ordinance is attached for reference.

Lenexa prohibits open carry of firearms, whether loaded or unloaded. Wichita, on the other hand, is gracious enough to allow its citizens the ability to carry openly, provided the firearm is unloaded.

These five examples are some of the various firearms restrictions that Kansans face when considering self-protection options. Kansas is not the panacea for gun owners that the opponents of these bills purport. Open carry, whether for self-protection, or just for target practice can be prohibited by cities on a whim. HB 2159 and SB 21 with a preemption amendment will go a long way towards remedying this situation. I would urge your support for both HB 2159 and SB 21.

(b) Creating a hazard is a Class B violation.
(Code 1964, § 23-01; Ord. No. 48744, § 1, 5-14-70; Ord. No. 65498, § 38, 1-4-90)

State law reference—Similar provisions, K.S.A. 21-4212.

Sec. 22-92. Throwing stones, bricks, wood, etc., generally.

(a) It shall be unlawful for any person to intentionally throw, pitch or otherwise cast any rock, stone, or other object, matter or thing in or across any street, avenue or alley or within any public place or at or against any house, building, vehicle or person within the city.

(b) A person convicted of throwing stones, bricks, wood, etc., is guilty of an unclassified violation unless an injury occurs during the act. If an injury occurs during the act, the person is guilty of a Class A violation.

(Code 1964, 23-52; Ord. No. 65498, § 39, 1-4-90; Ord. No. 65883, § 15, 3-10-94)

Sec. 22-93. Throwing objects from bridge or overpass.

(a) Any person who intentionally throws, pushes, pitches or otherwise casts any rock, stone or other object, matter or thing from a bridge or overpass onto a street, road, highway, railroad, railroad right-of-way, or upon any vehicle, engine or car thereon, is guilty of a Class B violation.

(b) Any person violating subsection (a) who damages any vehicle, engine or car lawfully on the street, highway or railroad right-of-way by the thrown or cast rock, stone or other object is guilty of a Class A violation.

(Ord. No. 65498, § 40, 1-4-90; Ord. No. 65883, § 16, 3-10-94)

State law reference—Similar provisions, K.S.A. 21-3742.

Secs. 22-94–22-105. Reserved.

DIVISION 2. WEAPONS

Part A. General Provisions

Sec. 22-106. Unlawful use of weapons.

(a) Unlawful use of weapons is knowingly:

- (1) Selling, manufacturing, purchasing, carrying or possessing any bludgeon, sword, cane, loaded cane, sandclub, metal knuckles, any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement, a mailed fist, spiked knuckles, metal fist covers or any leather apparatus or device worn on the arms, legs, hands, feet and that contain metal spikes, studs or other metal attachments, sap gloves containing granulated metal or other ingredients designed to add weight to the gloves, or other dangerous or deadly weapon or instrument of like character.

(2) Carrying or possessing on one's person or in any land, water or air vehicle a sword, dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edge razor, a lock-blade knife, belt or pocket pistol, fountain pistol or pen-like tear gas or powder charge projection weapon, stiletto or any other dangerous or deadly weapon or instrument of like character; provided, an ordinary pocket knife with a blade less than three and one-half (3½) inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument.

(3) Carrying or possessing on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance.

does not have to be concealed

Carrying or possessing any pistol, revolver, shotgun, rifle or other firearm on the person or in any land, water or air vehicle, loaded or unloaded, except when on the person's own land or in the person's own abode, fixed place of business or office.

(5) Setting a spring gun.

(6) Possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a molotov cocktail or a pipe bomb.

(7) Carrying on one's person or in any land, air or water vehicle any martial arts weapon, including but not limited to a shuriken or throwing star, karate sticks, nunchaku, Chinese fighting sticks, throwing spikes, metal coverings for fist or foot, or any other dangerous weapon or instrument of like character, except a student currently enrolled in a formal martial arts class or a formal instructor of martial arts employed in a licensed martial arts studio or business while carrying with them their training uniform while going to or from their place of formal training.

(8) Drawing, using, or demonstrating or threatening to draw, use or demonstrate any object in a hostile manner.

(9) Carrying any object in any manner with the intent to go armed, except when on the person's own land or in the person's own abode, fixed place of business or office.

(10) Discharging or firing any air rifle, pellet gun or BB gun within the city limits while on the streets, alleys or public places.

(11) Discharging any gun, revolver, pistol, or firearm of any description within the city.

(b) Subsections (a)(1), (2), (3), (4), (8) and (9) shall not apply to or affect any of the following:

(1) Law enforcement officers or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officers.

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crimes.

- (3) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty.
- (4) Manufacture of, transportation to, or sale of weapons to persons authorized under paragraphs (1) through (3) of this subsection to possess such weapons.
- (c) Subsections (a)(4) and (9) of this section shall not apply to or affect the following:
 - (1) Licensed hunters or fishermen while engaged in hunting or fishing and traveling to and from places to hunt and fish; those engaged in camping, scouting, trap, skeet or target shooting and instruction and training in safety and skillful use of weapons and traveling to and from places to engage in such activities.
 - (2) Persons licensed as private detectives by the state and detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service.
 - (3) The state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157.
 - (4) All persons carrying or transporting a pistol, revolver, rifle or other firearm to or from a place of business after purchase or for repair or between a person's abode or land and such person's place of business or office, provided that when transporting the same in any land, air or water vehicle, such firearm shall be unloaded and either stored or carried in that portion of the vehicle not accessible to the driver or passengers of the vehicle or when in a vehicle not containing a locked portion not accessible to the driver or the passengers then carried in a case or scabbard and behind or underneath an available seat, in a storage cabinet or closet or underneath the floorboard or carpeting; provided further that private detectives properly licensed pursuant to Kansas statutory requirement may carry their firearms on their persons or in an accessible portion of any land, air or water vehicle only while actually engaged in the performance of their duties and not when in transit to and from their jobs.
- (d) Subsection (a)(1) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq., in the name of such person, and, if such person transfers such firearm, device or attachment to another person, it has been so registered in the transferee's name by the transferor.
- (e) Subsection (a)(11) shall not apply to the discharge of firearms in any licensed shooting gallery, or by a gunsmith in carrying on his or her trade, or by any officer of the law in the discharge of his or her official duties.
- (f) The holder of a private security officer firearm permit shall carry a firearm while actually engaged in the performance of transporting an employer or their agent directly to and

from a financial institute or as allowed by section 19-216. The holder of a private security officer permit shall be allowed to carry only those intermediate weapons approved for use by law enforcement officers with the city police department.

(g) It shall be a defense that the defendant is within an exemption.

(h) No person shall unlawfully use weapons as defined herein. Any person unlawfully using weapons as defined herein shall, upon conviction thereof, be deemed guilty of a Class A violation. In addition to the penalty for the violation of this section, it shall be the duty of the municipal judge to order such weapon to be forfeited to the city. The same shall be destroyed, retained for use by the police department or sold by the chief of police whenever the weapon is no longer needed for evidence.

(Code 1964, § 39-3; Ord. No. 64772, §§ 1-6, 12-27-84; Ord. No. 65357, § 1, 10-6-88; Ord. No. 65498, § 41, 1-4-90; Ord. No. 65883, § 17, 3-10-94; Ord. No. 65924, § 1, 7-21-94)

State law reference—Similar provisions, K.S.A. 21-4201.

Sec. 22-107. Defacing identification marks of a firearm.

(a) Defacing identification marks of a firearm is the intentional changing, altering, removing or obliterating the name of the maker, model, manufacturer's number or other mark of identification of any firearm.

(b) Possession of any firearm upon which any such mark shall have been intentionally changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, or obliterated the same.

(c) Defacing identification marks of a firearm is a Class B violation.

(Code 1964, § 39-7; Ord. No. 65498, § 42, 1-4-90)

State law reference—Similar provisions, K.S.A. 21-4205.

Sec. 22-108. Record of sales and purchases.

No wholesale or retail dealer in firearms shall possess for the purpose of sale or sell any handgun unless such person keeps a full and complete record of the name of the maker, the model, the manufacturer's number, or other mark of identification of the firearm; the name and address of the person from whom purchased and to whom sold; and the date of such purchase or sale. Such record shall be open to inspection at all times to any police officer or other peace officer of the state.

(Code 1964, § 39-8; Ord. No. 65498, § 43, 1-4-90)

Sec. 22-109. Unlawful disposal of firearms.

(a) Unlawful disposal of firearms is knowingly:

- (1) Selling, giving or otherwise transferring any firearm with a barrel less than twelve (12) inches long to any person under eighteen (18) years of age;
- (2) Selling, giving or otherwise transferring any firearms to any person who is both addicted to and an unlawful user of a controlled substance;

Leawood

restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(c) It shall be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, or

(2) Was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation. (K.S.A. Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than \$500 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute. (Ord. 1430C; 9-19-94)

11-103.

SAME. Section 10.1 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

10.1. UNLAWFUL USE OF WEAPONS.

(a) Unlawful use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement;

(2) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) Carrying any pistol, revolver or other firearm:

(i) concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within any vehicle in transport unless the weapon is unloaded and in a case;

(5) Setting a spring gun;

(6) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.

(b) Subsections (a) (1), (2), (3) and (4) shall not apply to or

affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b) (1) through (b) (3) of this section to possess such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(5) The state fire marshal, the state fire marshal's deputies or member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(d) Subsections (a) (1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class B violation. (Ord. 1430C; 9-19-94)

11-104.

SAME. Section 10.5 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.5. UNLAWFUL DISCHARGE OF FIREARMS.

Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to apply:

ARTICLE I - OFFENSES INVOLVING EXPLOSIVES AND WEAPONS

Sections:	3-9I-1	Unlawful Use of Weapons
	3-9I-2	Unlawful Discharge of a Firearm
	3-9I-3	Defacing Identification Marks of a Firearm
	3-9I-4	Unlawful Use of Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun or Projectiles
	3-9I-5	Carrying Concealed Explosives
	3-9I-6	Molotov Cocktails

3-9I-1 UNLAWFUL USE OF WEAPONS.

A. Unlawful use of weapons is knowingly:

1. Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement.
2. Carrying concealed on one's person or possessing with intent to use the same unlawfully against another a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor stiletto or any other dangerous or deadly weapon or instrument of like character; except, that an ordinary pocket knife with no blade more than four inches (4") in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument.
3. Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance.

- A) 4. Carrying any pistol, revolver or other firearm on the person except when the person is on his land, in his dwelling or in his fixed place of business, or unless such pistol, revolver or other firearm is unloaded and in a case.
5. Transporting any pistol, revolver, or other firearm with a barrel less than eighteen inches (18") in length in an occupied motor vehicle, unless such firearm is secured.
6. Setting a spring gun.
7. Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm.
- B. Subsections A1, A2, A3 and A4 of this Section shall not apply to or affect any of the following:
1. Law enforcement officers or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
2. Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
3. Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or
4. Manufacture of, transportation to or sale of weapons to a person authorized under subsections B1 thru B3 above to possess such weapons.
- C. Subsection A4 and A5 of this Section shall not apply to or affect the following:
1. Watchmen, while actually engaged in the performance of the duties of their employment;

- C) 2. Discharge of a weapon while on a lawfully operated gun club or National Guard Armory range;
3. Private detectives licensed by the State to carry the firearm involved, while actually engaged in the duties of their employment;
4. Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or
5. The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such Fire Marshal, Deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto.
- D. Subsections A1 and A6 of this Section shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the National Firearms Registration and Transfer Record in compliance with 26 U.S.C. 5841 et seq., in the name of such person. If such person transfers such firearm, device or attachment to another person, it should be so registered in the transferee's name by the transferor.
- E. It shall be a defense that the defendant is within an exemption.¹

Violation of this Section shall constitute a public offense and punishable as set forth in Article 9J of this Chapter. (Ord. 3954, 8-17-95)

3-9I-2

UNLAWFUL DISCHARGE OF A FIREARM.

- A. Unlawful discharge of a firearm is the firing or discharging of a pistol, rifle or shotgun within the City limits; except, it shall not

Chapter 9.02AMENDMENTS TO ARTICLE 10 OF THE UNIFORM PUBLIC
OFFENSE CODE, OFFENSES AGAINST PUBLIC SAFETYSections:

- 9.02.010 Unlawful use of weapons.
- 9.02.020 Custody of seized weapons.
- 9.02.030 Hunting prohibited.

9.02.010 Unlawful use of weapons. Article 10, Section 10.1 of the Uniform Public Offense Code for Kansas Cities, Edition of 1995, Unlawful Use of Weapons, as amended:

A. Unlawful use of weapons is knowingly:

1. Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, shotgun with a barrel less than eighteen inches in length, metal knuckles or any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; or

2. Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, sling shot, dangerous knife, straight-edged razor, stiletto, or any other dangerous or deadly weapon or instrument of like character; provided, however, an ordinary pocketknife with no blade more than four inches in length shall not be construed to be a dangerous knife or dangerous or deadly weapon or instrument; or

3. Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a teargas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

4. Carrying any pistol, revolver or other firearm on the person or in an occupied motor vehicle when an occupant of said vehicle has access to any such pistol, revolver or other firearm with a barrel less than eighteen inches in length, except when the person is on their land or in their dwelling or fixed place of business; or

5. Setting a spring gun; or

6. Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

7. Shooting or discharging any gun, revolver, air rifle or air gun, pistol or firearm of any description, whether the same be loaded with powder and ball or shot,

loaded with "blank" cartridges, or with any kind of explosives whatsoever;

8. Shooting or discharging an arrow, or possession of any crossbow or bow and arrow device designed to be used to shoot or discharge arrows, with intent to use the same.

B. Exemptions:

1. Subdivisions 1, 2, 3 and 4 of subsection (A) of this section shall not apply to or affect any of the following:

a. Law enforcement officers, or any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

b. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of a crime;

c. Members of the armed services or reserve forces of the United States of the Kansas National Guard while in the performance of their official duty;

d. Manufacturing of, transportation to, or sale of weapons to persons authorized under subdivisions (1)(a) through (c) of this subsection to possess such weapons.

2. Subdivision 4 of subsection (A) of this section shall not apply to or affect the following:

a. Uniformed watchmen while actually engaged in the performance of the duties of their employment;

b. Persons licensed as private detectives by the state; or

c. Detectives or special agents, regularly employed by railroad companies or other corporations to perform full-time security or investigative service, actually engaged in the performance of the duties of their employment.

3. Subdivision 7 of subsection (A) of this section shall not apply to or affect the following:

a. Those persons enumerated under subdivisions 1 and 2 of this subsection;

* b. Persons engaged in the defense of person or property;

* c. Persons engaged in target or practice shooting; provided, that this activity occurs at a reasonable hour in a building or outdoor location with a backstop or otherwise designed for the purpose on agriculturally zoned tracts of land of at least twenty acres, at a minimum distance of five hundred feet from any building or structure, and which does not disturb the peace and quiet of the surrounding area, is under the supervision of a responsible adult, and is limited to use of shotguns, pistols, air guns, or bows and arrows with bludgeoned tips;

d. To firing squads for ceremonials.

C. It shall be a defense that the defendant is within an exemption.

D. Violation of this section is a Class A offense. (Ord. 2237 §B(part), 1996: Ord. 2172 §B(part), 1994: Ord. 2045 §B(part), 1992)

9.02.020 Custody of seized weapons. Article 10, Section 10.4 of the Uniform Public Offense Code of Kansas Cities, Edition of 1995, Confiscation, Disposition of Weapons, as amended:

A. Upon conviction of a violation of Section 9.02.010 or 9.02.030 of the Shawnee Municipal Code or amendments thereto, or Section 10.2, 10.3, 10.3.1 or 10.10 of the Uniform Public Offense Code for Kansas Cities, Edition of 1995 or amendments thereto, any weapon seized as evidence in connection therewith shall remain in the custody of the Trial Court.

B. Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the Trial Court, be destroyed, preserved as city property, forfeited to the law enforcement agency seizing the weapon or sold and the proceeds of such sale shall be paid to the city general fund. All weapons forfeited to any law enforcement agency may be traded for materials for use by such law enforcement agency or sold and the proceeds thereof used for law enforcement purposes. (Ord. 2237 §B(part), 1996: Ord. 2172 §B(part), 1994: Ord. 2045 §B(part), 1992)

9.02.030 Hunting prohibited. A. It is unlawful for any person to hunt, pursue, seek or chase any animal within the city limits of the city, whether the animal is wild or domestic, by use of any weapon, to include, but not be limited to, all gauges of rifles, shotguns, pistols or bow/crossbow and arrow.

B. This section shall be of full force and effect upon all property, whether public or private, of any zoning classification or category, within the existing corporate city limits of the city, as the same now exists or may legally exist at the time of any perceived violation of this section. (Ord. 2237 §B(part), 1996: Ord. 2172 §B(part), 1994: Ord. 2045 §B(part), 1992)

Chapter 5.88

WEAPONS

Sections:

- 5.88.010 Unlawful use of weapons.
 5.88.015 Permit requirements and other restrictions upon the purchase and sale of firearms, handguns and assault weapons.
 5.88.020 Unlawful discharge of a firearm, air rifles, pellet guns and BB guns.
 5.88.030 Air rifles, pellet guns and BB guns—Carrying within the city.
 5.88.035 Discharging firearms at dwellings, structures or vehicles.

5.88.010 Unlawful use of weapons.

(1) Unlawful use of a weapon is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which, having the appearance of a pocket knife, also has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or by other mechanical contrivance, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(c) Carrying unconcealed on one's person or in any vehicle under one's immediate control, with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(d) Carrying any pistol, revolver or other firearm concealed on one's person except when on one's land or in one's abode or fixed place of business;

(e) Carrying on one's person any unconcealed, loaded firearm, except when on one's land or in one's abode or fixed place of business;

(f) Carrying in any vehicle under one's immediate control, any loaded firearm, except when on one's land or in one's abode or fixed place of business;

(g) Possessing any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or

(h) Drawing a pistol, revolver, knife or any other deadly weapon upon any person.

(2) Subsections (1)(a), (b), (c), (d), (e), (f) and (h) shall not apply to or affect any of the following:

(a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(3) Subsection (1)(d), (e) and (f) shall not apply to or affect the following:

(a) Watchmen, while actually engaged in the performance of the duties of their employment;

(b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(4) Subsection (1)(d), (e) and (h) shall not apply to or affect historical reenactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or his designee.

(5) Subsection (1)(a) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(6) It shall be an affirmative defense that the defendant is within an exemption.

(7) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(8) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation which is a firearm to be destroyed or forfeited to the Wichita police department. Any weapon forfeited to the Wichita police department shall be utilized by the police department or sold or traded to a federally licensed wholesale gun dealer for materials to be used by the Wichita police department. Proceeds from any such sale shall be used for law enforcement purposes by the Wichita police department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section other than subdivision (a) of this subsection shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsection (7)(a) and (b) above. (Ord. No. 42-636 § 1)

5.88.015 Permit requirements and other restrictions upon the purchase and sale of firearms, handguns and assault weapons.

1. Definitions. As used in this section, the following

terms shall have the following meanings, unless the context clearly indicates a different meaning:

Assault Weapon. An "assault weapon" is: (a) any semiautomatic action, center fire rifle or carbine that accepts a detachable magazine with a capacity of twenty rounds or more; (b) any semiautomatic shotgun originally designed with a factory magazine capacity of more than seven rounds; (c) any semiautomatic handgun that is a modification of a semiautomatic action, center fire rifle or carbine that accepts a detachable magazine with a capacity of twenty rounds or more; (d) any semiautomatic handgun originally designed to accept a detachable magazine with a capacity of twenty rounds or more; (e) any semiautomatic handgun that is a modification of an automatic firearm; (f) any firearm from which two or more shots may be discharged by a single function of the firing device; (g) any firearm which may be restored to any operable weapon of a type described in clause (a), (b), (c), (d), (e) or (f), above; and, any part or combination of parts designed or intended to convert a firearm into any operable firearm of a type described in clause (a), (b), (c), (d), (e) or (f), above, or from which any such weapon may be readily assembled. However, the term "assault weapon" does not include any firearm that uses .22 caliber rimfire ammunition with a detachable magazine having a capacity of twenty rounds or less, any shotgun with a factory magazine capacity of seven rounds or less, or any weapon that has been modified to render it permanently inoperable or permanently inrestorable to any operable weapon of a type described in any of clauses (a), (b), (c), (d), (e) or (f), above.

"Business day" means any day on which both state offices and city offices are open.

"Dealer" or "firearms dealer" means any person, firm, limited liability company or corporation engaged in the business of selling firearms at wholesale or retail.

"Firearm" means any weapon designed to shoot bullets or other potentially lethal missiles by means of an explosive charge, including but not limited to handguns, rifles and shotguns, but excluding any weapon within the definition of "antique firearm" as set forth in U.S.C. Title 18 Section 921(a)(16). The definition of "firearm" also shall not include any weapon which has been rendered permanently inoperable.

"Handgun" means any firearm designed (originally or by modification) to be held and fired with one hand.

"Purchaser" means any person, other than a dealer, who orders, purchases, rents, or obtains a handgun or assault weapon (other than by devise, bequest, intestate succession or other transfer arising by operation of law) or who attempts to do so. Any transfer pursuant to a

February 7, 1997

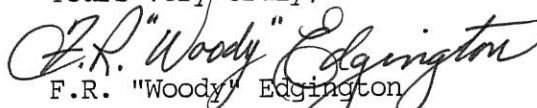
Dear Senator:

I, F.R. "Woody" Edgington, respectfully request your consideration of casting a "AYE" vote for SB 21 and a "NAY" vote for SB 1606 for the following reasons:

- (1) As of 12/31/96 the State of Florida has 391,415 active three (3) year "Right to Carry" permits issued, with only 78 revoked for firearm violations since October 1, 1987! (Source: Secretary of State, Division of Weapon Licensing, Tallahassee, FL, (904) 488-0039).
- (2) 99.8% of all Florida permittees are law-abiding citizens determined to defend their person, family, property and others against the threat of criminal violence.
- (3) 88% of all violent crimes occur outside the home.
- (4) Kansas Statutes now permit the open carrying of a handgun by a law-abiding resident, subject to local ordinance restrictions.
- (5) Kansas licensed hunters and fishermen are exempt from Statutes prohibiting concealed carry of a handgun, while fishing or hunting.
- (6) A law-abiding Kansas resident may openly transport a handgun on the seat of his/her vehicle while driving but cannot conceal the weapon under a hat, newspaper or in the glove compartment!
- (7) A law-abiding Kansas resident may openly carry a holstered handgun in waist/shoulder holster but cannot conceal the weapon under a coat or shirt!
- (8) We must view a "Right to Carry" permit as the opportunity to establish an ongoing EDUCATIONAL PROGRAM equally available to all law-abiding Kansas handgun owners.
- (9) With Statutory procedure in the issuance of such permits, we will EDUCATE all in the responsibilities of firearm ownership, EDUCATE all in the handling and storage of their weapon, EDUCATE all in the lawful use of firearms and EDUCATE criminals that crime does not pay in Kansas.
- (10) Ownership of handguns in Kansas is extensive and EDUCATIONAL INSTRUCTION in the handling of any firearm to qualify for a "RIGHT TO CARRY" permit is a benefit not to be ignored by the Legislature!

Thanking you in advance for your favorable consideration of all of the above, I remain,

Yours very truly,


F.R. "Woody" Edgington
9127 Lowell Avenue
Overland Park, KS 66212-3142

ngh/FRE
Telephone: (913) 649-6848
FAX: (913) 381-8181

Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #9

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!

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: #10

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."

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 Senate Committee on Federal and State Affairs
In Support of "Right to Carry" Legislation, S.B. 21**

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.

-- continued --

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.

-- continued --

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.

D:\data\deeds\aaa-tst.002

FEB 10 1997

**Lynwood R. Yarbrough
2923 West 94th Terrace
Leawood, KS 66206**

phone: 913-381-1237
FAX: 913-588-7440
email: lyarbrou@kumc.edu

February 6, 1997

Senator Lana Oleen and Members,
Federal & State Affairs Committee
Kansas Senate
Senate Office Building
Topeka, KS 66612

Dear Senator Oleen and Members of the Committee:

I am writing to urge that you carefully evaluate the information regarding the costs and benefits of concealed carry of handguns. If you do I believe that you will find that it will be in the best interests of the citizens of the state of Kansas if you pass legislation allowing concealed carry of handguns in Kansas.

I am aware that there is vigorous opposition to this legislation, especially by present and former administrative officials in Johnson County. In particular, the MAINstream Coalition has directed considerable effort to defeating this legislation. I am a member of the MAINstream Coalition and I support strongly most of their efforts. However, in this case I believe that those opposing the right to carry legislation are wrong. I also believe that much of the opposition from MAINstream and others with similar views arises from ignorance about weapons, ignorance about people who are familiar with and might carry legal weapons, and a philosophy of life that one should not accept any responsibility for personal safety but rather must depend on the state and its officials to guarantee safety. I believe this philosophy is wrong.

Let me add that I am not a "gun nut" as the gun control gurus are so apt to label those who have differing views, however, I do accept some responsibility for my personal safety and that of my family. Some of my personal characteristics, experience and expertise include:

1. I am a card-carrying member of the ACLU and have been for many years, thus I am not anti-government.
2. I am a medical school professor engaged in teaching and research in Kansas since 1975.
3. I served in a US Army Military Police Unit for 6 years, therefore I have had extensive weapons training with many types of weapons, including automatic weapons.
4. I have owned weapons since my father purchased my first gun for me at age eleven (a 16 ga. shotgun).
5. I recently completed the Kansas Hunter Safety Course along with my wife who had not hunted previously and wanted to learn to hunt safely.

MAINstream has listed a number of arguments against concealed carry legislation to which I would like to respond.

Mainstream: Kansans can already legally carry a firearm as long as it is carried openly for everyone to see (as in a holster). If possession alone is claimed to be a deterrent to potential criminals, how can concealing the weapon make it more of a deterrent? That combined with more encumbered access to the weapon, reduces any claimed advantage of having a weapon.

Response: I believe this statement is incorrect. It is my understanding that most cities have local ordinances prohibiting carrying a weapon. Second, regarding deterrence, it should be noted that police have found the use of unmarked squad cars to be a very effective deterrent to speeding and other traffic violations. The uncertainty that one could be passing an unmarked squad car acts to reinforce conformity with the traffic laws due to the possible costs to the individual breaking the law. In the same manner, the uncertainty of whether an individual has the power to respond, i.e. has a concealed weapon, acts as a potent deterrent to crimes against person. This is not conjecture. In one of the most thorough studies performed to date regarding benefits of concealed carry of handguns, a study which was presumably reviewed by a jury of peers prior to publication, Professors John Lott and David Mustard of the prestigious University of Chicago Law School and Department of Economics in the college, show that concealed carry laws decrease significantly the most serious crimes such as rape, murder, and aggravated assault (manuscript enclosed)¹. The authors estimate that the annual economic benefit of states which do not currently have concealed carry laws implementing such laws would be on the order of 6 billion dollars. Their study shows clearly that the effect of such laws is to decrease the number of the most violent personal confrontations (see also Footnote 8, page 4 of this study).

Mainstream: As a former United States Special Forces officer during the Vietnam era, I am not a stranger to firearms and I can assure you that even with the required training, most armed private citizens will be at a distinct and perilous disadvantage with a desperate criminal.

Response: The Kansas City Star within the past several months published an article about an intruder who was attempting to rape and rob an elderly woman who was in her eighties. She kept her cool, pulled out a handgun which her late husband had stored in a closet and shot and killed the intruder. Such events happen rather regularly. More and more women are choosing to take up shooting and learning the use of handguns for self defense. I am enclosing an interesting article which appeared in the Sunday New York Times within the past several months. It describes a woman television editor and documentary film maker who was vehemently anti-gun. She planned to make a film about the evils of guns and decided to learn something about guns and people who use them before she made her film (an admirable action not often imitated). While I don't agree with some of her conclusions such as national licensing, it is interesting to note the following statement she made: "**Where I live and travel in Manhattan are some of safest places in the Country. But if I lived in Brooklyn; or was a nurse who came home late at night to the Bronx, I'd want to carry. I think criminals are deterred if they think that their intended victims may be armed.**" Sure, I agree that there are people who would be better off not carrying weapons. However, there are also people who would be better off not driving. Let those who are qualified and wish to do so have the choice to carry weapons. Even those who choose not to carry concealed weapons may benefit.

¹I make no claim to be able to fully evaluate all of the mathematical aspects of this study. However, it appears to be the most exhaustive and comprehensive study done to date dealing with this issue, its authors are associated with one of the most prestigious universities in the country, and I presume that it was subject to peer review, as are most prestigious journals in science and law. As a scientist involved in publishing and reviewing manuscripts for peer reviewed journals. for me this adds credibility to the study.

Mainstream: *Most criminals will only use the amount of force necessary in each situation. Therefore, if they are concerned that their victim is armed, the amount of force that they will use is immediately escalated, and the victim's safety would be significantly reduced.*

Response: I find this argument rather pathetic. It seems to say that the better victim we are the less the danger. If one follows this pattern of "reasoning" to its logical conclusion, one would conclude that the best thing to do in case one has a home intruder is to welcome them in, put all of the valuables in a bag, offer them a drink and then bid them farewell. Don't call the police because this might upset the intruder and cause them to use more force. In essence, this philosophy says we must depend on the rationality and good will of the criminal. Perhaps that is what some citizens would choose to do, and that is certainly their right. However, as pointed out above, the process works just the other way. Many, probably most, potential criminals would hesitate to accost an individual if there is the possibility that the individual is armed and could defend themselves (Footnote 8, page 4 of Lott and Mustard study). The possible costs to the potential criminal escalates and they are deterred from taking action. Most criminals are not totally stupid. Escalation of the possible costs of a confrontation, such as getting shot, acts to deter such confrontations. One unfortunate result of this deterrence is that nonviolent property crimes appear to increase in response. However, this seems an acceptable outcome.

MAINstream: *Off deepest concern with this irresponsible legislation is the message that it sends to our young people. If this bill becomes law, we are telling our children that we have become a frightened society, with a vigilante mentality. With parental role models doing it, children will determine that it is OK to carry a gun just like Mom and Dad.*

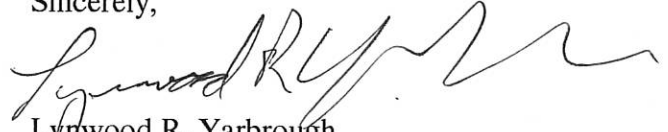
Response: I would ask what message are we sending currently? I have a colleague who is a Lieutenant in a local Police Reserve unit. He tells me that police feel that probably close to a third of cars are already carrying handguns, **illegally**. What message is this sending to our kids. Those who would apply for and receive a permit for concealed carry would be demonstrating a clear respect for the law regarding firearms. I suspect that kids of those approved for lawful carry would be the last to carry weapons illegally. With respect to a vigilante mentality, I believe that the dictionary makes a clear distinction between self-defense and vigilantism (Webster's Third International unabridged Dictionary- **vigilante**, a member of a vigilance committee; a committee organized to suppress and punish crime summarily). The use of the above term reflects either ignorance of the true meaning of the term or more likely is simply a scare tactic designed to conjure up images of a vigilante mob.

With respect to passage of a concealed carry law in Kansas it should be noted that whereas only 10 states had right to carry laws in 1986, today 31 states have such laws. Thus, citizens are demanding and receiving the right to have the means of self defense. Women in great numbers are availing themselves of this opportunity. Second, the data that I have seen suggest that there have been vanishingly few of the individuals who have received a permit for concealed carry who have committed crimes involving the use of guns. Last, look at crime statistics of states such as New Hampshire, Idaho, and Arizona which have relatively liberal laws regarding firearms and concealed carry and compare them to the statistics of states with very extensive and rigid firearms laws. Do the states with liberal gun laws have more violent crimes? I think not. I would feel safer any day in any city in New Hampshire than in Washington DC. More restrictive gun laws don't work because criminals don't get their weapons lawfully.

In summary, I think that much of the opposition to liberalizing gun laws is based on ignorance and fear. There are indeed many problems with our society and there are no

panaceas regarding crime prevention. Personally, I find the level of violence against and by the young especially appalling. However, I don't think more restrictive gun control is going to cure this societal ill. Look carefully and objectively at the data regarding concealed carry laws and reach a decision based on a rational analysis of the data which is currently available. I don't know if I would apply for a permit if I had the opportunity. The cost of a permit in the proposed law during the last legislative session seemed somewhat excessive, if I recall correctly. However, if I deemed it necessary I would like to have the right to carry a weapon legally. I do not think that we will be worse off and I think that we will likely be better off if citizens have this right. If a law allowing concealed carry is passed I believe that it should be a legislative act and not a constitutional amendment.

Sincerely,



Lynwood R. Yarbrough

February 11, 1997

The Honorable Lana Oleen
Chairman, Senate Federal & State Affairs Committee
State Capitol, Room 136-N
Topeka, KS 66612

Dear Senator Oleen:

We, the undersigned Chambers of Commerce, oppose permitting persons, other than those allowed under current law, to carry concealed firearms. Accordingly, **we oppose SB 21 and respectfully ask you and the members of the Senate Federal & State Affairs Committee to vote against it.**

A bill allowing citizens to carry concealed handguns may enmesh businesses and business-premise owners in costly litigation. While employers may ban concealed handguns from their premises under SB 21, 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?

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.

-over-

Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #13

Concealed weapons may escalate the incidence of workplace violence in Kansas, already the second leading cause of occupational deaths in the nation. Although SB 21 permits employers to ban employees from bringing handguns to work, questions exist about the feasibility of 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 SB 21 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

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.

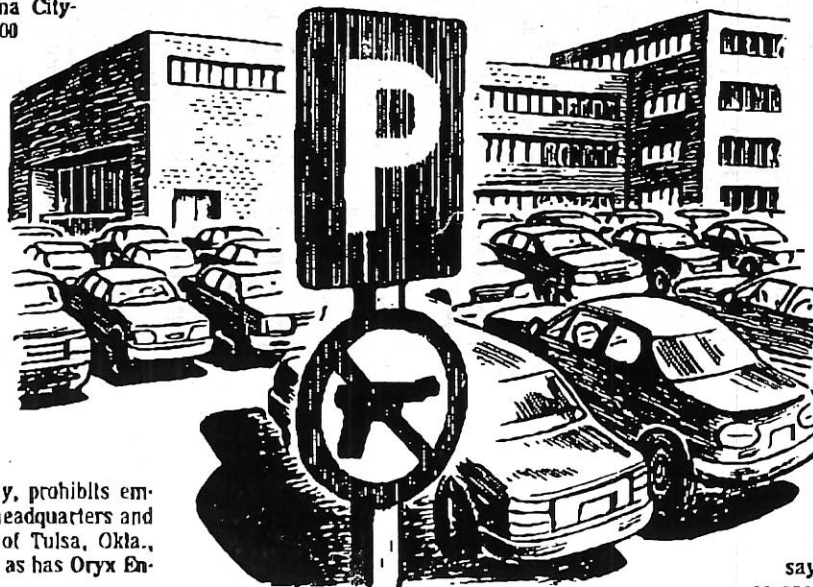
Certainly, not all companies have to worry about whether to have a policy. Federal law prohibits taking guns into banks, and most state laws don't allow permit holders to take weapons into many public places, like courthouses, schools, hospitals, liquor stores or bars.

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 Voillet

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-

Concealed-Gun Laws Create Legal Traps For Many Businesses

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.

FLORIDA: MURDER WITH HANDGUNS

Year	Murders w/handgun ¹	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, effective 10/1/90 ; State-wide election on, a constitutional amendment (Article 1, section 8) for a 3-day waiting period passes by a margin of 85% - 15%; effective 11/6/90 .
1991	565	In accordance with the constitutional amendment, Legislature makes it a felony to violate the 3-day waiting period.
1992	554	
1993	525	

¹ 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>
Lawrence Chamber of Commerce/12-96	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	Oppose - 374 (77%) Support - 111 (23%) (30% of membership responding)
Overland Park Chamber of Commerce/10-96	Do you support or oppose concealed carry of weapons?	Oppose - 102 Support 20 (12.2% of membership responding)
Topeka Chamber of Commerce (in process)	<ol style="list-style-type: none"> 1. Do you personally support state legislation authorizing the carrying of concealed weapons? 2. Do you feel comfortable with employees and customers, where you work and shop, carrying concealed weapons? 	<p>* preliminary results</p> <p>Total returned to date - 147</p> <ol style="list-style-type: none"> 1. No - 124 (84%) Yes -23 (16%) 2. No - 124 (84%) Yes -23 (16%) <p>(8.7% of membership responding)</p>

13.5
73-4

ROBERT MARTIN
WILLIAM L. OLIVER, JR.
PAUL B. SWARTZ
DWIGHT D. WALLACE
LARRY B. SPIKES
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:

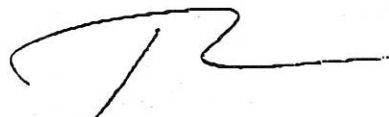
I am writing to express my opposition to any legislation and to any proposed Constitutional Amendment to allow the carrying of concealed weapons or firearms. Although I am an outdoors man and have enjoyed hunting, particularly upland game birds, I am opposed to the suggested legislation and Constitutional 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

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 hand gun 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

13-8
43-7



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

S.B. 21 CONCEALED WEAPONS

Senator Oleen and members of the Senate Committee on Federal and State Affairs the Kansas State Nurses Association would like to submit written testimony on SB 21.

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

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: #14

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.

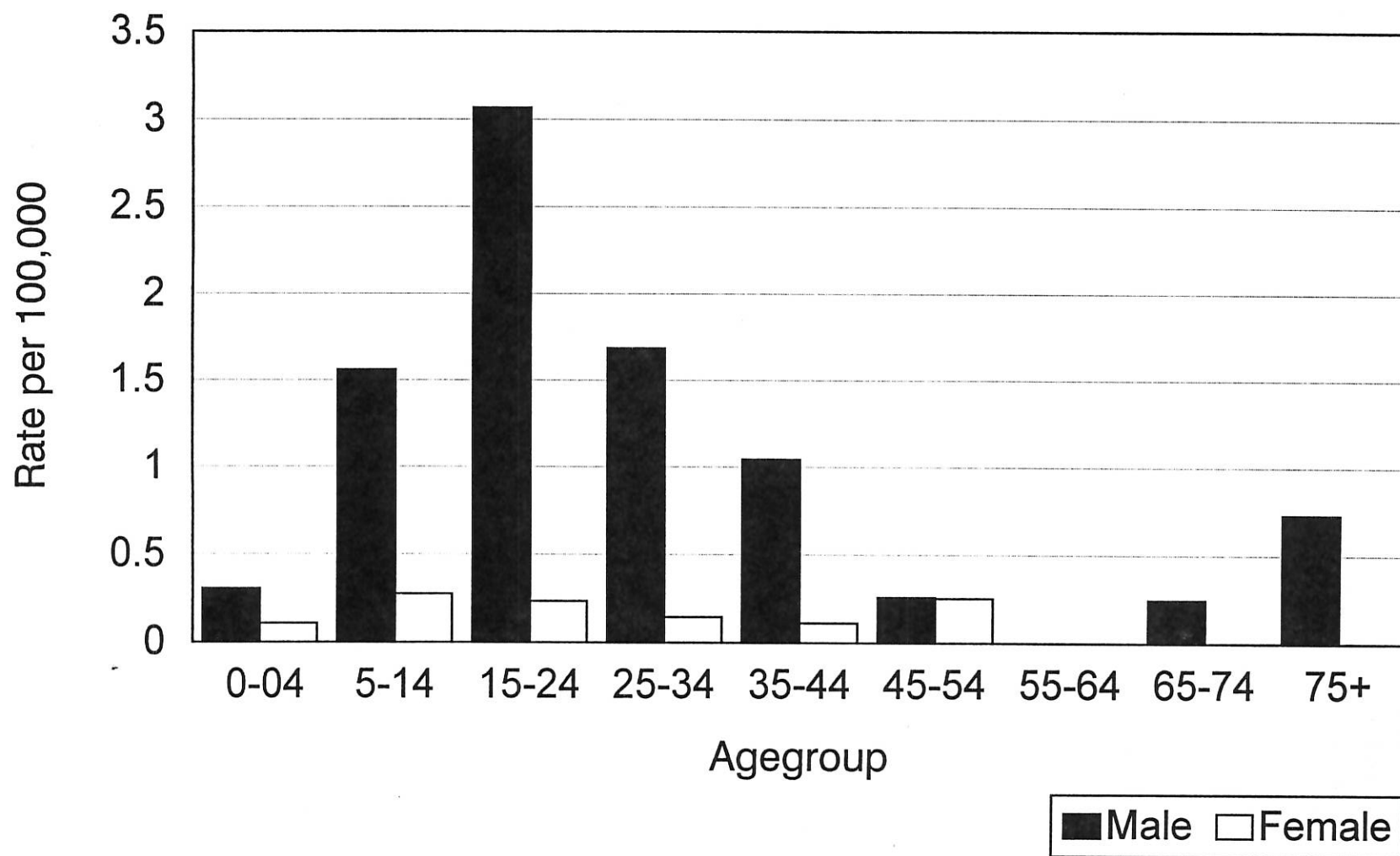
Any death or injury to a child is tragic; one that occurs from involvement with a gun is preventable.

Thank you.

b:dlr/green/sb

Firearm Injury Deaths-Unintentional

Kansas 1985-94, n=170



Source: KDHE, Vital Statistics

February 17, 1997

Senator Lana Oleen, Chair
Federal and State Affairs
Room 136 North, State Capitol

Subject: Concealed Weapons Bills

Dear Senator Oleen and Committee:

I am Rev. Alden R. Hickman, former Executive Director of Kansas Ecumenical Ministries (the State Council of Churches) and a Korean War veteran.

I am opposed to any bills allowing citizens to carry concealed weapons.

About 100 years ago the Marshals of Abilene, Dodge City and other western towns were able to stop people from carrying guns into towns. Civilization flourished in the former wild west. An insult was no longer repaid with a bullet. Law and order made Kansas and other states safe places to live.

As a nation we have just cut back on welfare and other programs for the poor. Is it possible that we want weapons because we know things will become worse and worse for those without jobs and hope? We build more prisons and mock early prevention programs.

We are pushing for laws to protect the unborn, but it seems some of us want the right to kill living humans. Today we are see the United States as the leading nation in domestic violence with more handgun deaths per 1,000 citizens in the USA than any other modern nation.

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: #15

We even run people off the free way for cutting in front of us. Yesterday's paper carried the story of yet another angry husband who shot his wife and almost shot their neighbor. We are becoming the most violent nation in the world. We supply more weapons to other nations than any other country. Children are taught in TV commercials to trash property and to smash anyone who gets in their way.

We do not need to have the civilian population wearing concealed weapons. I am ready to support our local, county and state police in anyway I can. If that means more taxes— so be it.

However, guns and police and prisons are just a **response** to a problem — **not the cure**. No matter how many people arm themselves we will continue to have robbery and other crime until the conditions that cause it are changed. Shooting people doesn't change massive unemployment rates in the inner cities. Cutting people off the welfare rolls will only increase the anger and disenfranchisement of many. Until we start caring for each other and seeking the common good we will continue this spiral into violence.

The KBI is already behind in its important work. If they have to take time and money to set up a registration and training program for the citizens of Kansas, many crimes will go unresolved.

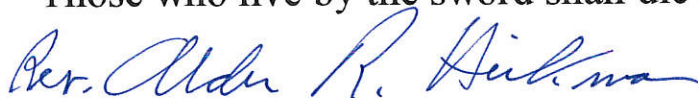
We live in a strange time. Conservative lawmakers, who urge prayer in the school and bills prohibiting the desecration of the flag, seem to forget that we are supposedly —

One Nation Under God

not

One Nation under Arms.

Those who live by the sword shall die by the sword!



Rev. Alden R. Hickman, 7023 SW 33rd. St., Topeka, KS 66614

February 17, 1997

Senator Lana Oleen, Chair
Federal and State Affairs
Room 136 North, State Capitol

Subject: Concealed Weapons Bills

Dear Senator Oleen and Committee:

I am Enid Hickman, a mother, Music Educator, and private citizen.

I AM OPPOSED TO CONCEALED WEAPONS BILLS.

Careful thought and vision are required; statistics are getting unreliable.

Reality is that a too-high crime rate is present and needs to be solved. HOW?

Citizen-training and licensing to carry weapons does not cull out persons lacking in good judgment and hot tempers; it does not eliminate persons with unidentified emotional and mental deficiencies. All of these categories could be licensed.

If everyone you meet is a possible armed person, a climate of mistrust will prevail.

Criminals in a tight spot will be more likely to shoot if they must assume each person may be armed, for violence begets violence. Criminals always think they can overpower and outshoot, and outsmart. If they thought otherwise, they would not turn to crime.

Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #16

Threats and fear do not deter criminals.

Allowing citizens to carry concealed weapons would take a great deal of administration, tax money and focus which instead needs to be directed toward solving the crime problem we now have.

I will feel safer when :

- A better data network for tracking criminals or persons with records in Kansas and neighboring states is in place.

- More parole officers are hired to really monitor those leaving prison.

- The courts are expanded to be able to process criminal cases quickly and effectively.

- Alternative schooling and rehabilitation is available for wavering and at-risk youth, so they aren't turned out on the streets when they get in trouble or can't make it in public schools.

Use tax money, administration, KBI power and legislative leadership to change the sources where crime breeds, festers, and multiplies.

Letting citizens carry concealed weapons will not decrease the roots of crime.

Respectfully,



Enid E. Hickman

7023 SW 33rd St.

Topeka, KS 66614

TESTIMONY
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
FEBRUARY 10, 1997

I am Oren K Skiles, Police Chief in Arkansas City, Kansas. I am submitting testimony to you about the Concealed Carry Bill. I have several concerns I want to address. Without going into too much detail on statistics, which I am sure you will be provided and study.

Some would like us to believe that the more private citizens are armed the safer we will all be. There are already 222 million privately owned firearms in the United States and we are by no means the safest in the world. Florida is one of the states that passed a Concealed Weapons Law. This law was passed in 1987. Contrary to what some would have us believe, during the prior from 1987 to 1992, violent crime in Florida increased by 17.8%. In 1994, Tampa and Miami ranked 4th and 5th for the most violent cities in the United States.

“What are firearms being used for?” According to the United States Department of Justice, between 1987 and 1992 there were 62,200 victims of violent crimes. Less than 1% used a firearm to protect themselves. But during the same time 20,300 citizens used their firearm to protect their car or other property. This points out that citizens do not understand when they can legally use their firearm. Allowing them to carry it concealed may compound this situation and may find many of them entering the criminal justice system for their actions.

As a police officer, I am concerned that giving people the right to carry a concealed weapon will affect the relationship between police officers and citizens. Officers will have to approach every citizen they contact as though they have a weapon. This will mean that many citizens could be dissatisfied with their treatment but for the officers safety, this approach will be necessary. Police know the dangers of carrying a firearm. An FBI study of 54 police shootings where an officer was killed found that 85% did not even have time to fire their weapon while 20% were killed with their own gun. These are trained officers. What would the percentage be for citizens with minimal training and experience who attempt to protect themselves with a concealed weapon?

Before I close I would like to mention a couple of other thoughts. Having children and grandchildren who live in Kansas, I am extremely concerned that any public place such as a grocery store or mall my family may choose to go to, they could be subjected to the dangers of people who could be legally carrying a concealed weapon and who could become angry, feel threatened, or for some unknown reason decide they want to take matters into their own hands and use their weapon. This would be putting my family as well as other citizens in extreme danger.

Thank you for the opportunity of presenting my concerns to the Federal and State Affairs Committee.

FEB 10 1997



February 7, 1997

Senator Lana Oleen
 Chairperson, Federal and State Affairs Committee
 Topeka State Capitol, Room 136-N
 Topeka, Kansas 66612
 Fax: (913) 368-6365

Re: SB 21 and SCR 1606, concerning concealed weapons

Dear Senator Oleen:

I feel as a city manager that allowing persons to carry concealed weapons endangers the lives of citizens and law enforcement officers. Because Senate Bill 21 does not allow provisions for municipal governments to pass ordinances prohibiting concealed weapons I ask that you vote against this bill. No such bill should pass, however, in the event concealed weapons would be allowed by the state, local governments should be allowed to retain authority to make laws which protect its citizens.

My understanding of SCR 1606 is that it is a constitutional amendment to prohibit the carrying of concealed weapons. I think this is a most appropriate measure.

Thank you for your time and consideration in this matter.

Yours Truly,

R. G. Doran
 City Manager

RGD/sw

Sen. Federal & State Affairs Comm.
 Date: 2-19-97
 Attachment: #18

February 12, 1997

Attention: Senator Lana Oleen
Chr. Federal and State Affairs Committee

From: Phyllis Todd
3030 MacVicar
Topeka, Ks 66611-1812

I wish to add my opinion to those on the side of opposing any legislation that would allow the carrying of concealed weapons.

Because nearly 40,000 Americans die each year and more than 582,000 are assaulted each year from gun violence and because gun violence is the leading cause of death for African-American males-- 15 to 23 years of age, I believe that in our society the presence of concealable handguns and assault weapons has no redeemable social purpose.

Statistics show that suicidal adolescents are seventy five times more likely to commit suicide when a gun is kept in the home, and that household gun is forty-three times more likely to kill a family member or friend than an intruder.

My concern is primarily about life and about building a community where people do not hurt or destroy one another; but, gun violence drains \$20.4 billion per year from the economy and public funds pay for 80 per cent of health-care expenses for injuries and fatalities due to guns.

Let us use our energies and our resources to build self-esteem, bridge the economic gap and settle our differences without killing.

Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #19

FEB 11 1997

Madam Chairman,

Fellow Kansans,

I write as a concerned citizen, a retired professor, a grandparent, and a veteran. I am not a lawyer. I have not read KSA 1996 Supp. 21-4201. I represent no particular group or organization. What follows is a position paper, not a research paper. The only documentation I expect to provide will be an occasional citation from SB 21. In expressing my doubts with regard to that bill, I propose to emphasize four main points: insufficient need, unlikely benefits, difficulty of enforcement, and questionable philosophy. My primary concern is to minimize the risk of violence in this state, and since I think that SB 21 would increase that risk, I question the wisdom of its enactment.

Initially, the thought of legalizing the carrying of concealed handguns brought to my mind the days of frontier justice, of "Gun Smoke" and "High Noon". Further inquiry has allayed my fears of a throwback to the days of vigilantes. Nevertheless, I find myself opposing any bill that seems to me to increase reliance on force in hands other than those of the police. Present law permits owning of handguns. I recognize SB 21 as designed to extend the legality of carrying such a weapon concealed on one's person or in a purse or handbag. Through a meticulously monitored licensing system SB 21 would extend that privilege to individuals other than the police, private detectives, security guards and others who already have that authorization and responsibility. So far, I have not found a clear statement of the reason for this extension. I do not know how many legitimate gun owners would apply for licenses to carry their weapons concealed, but insofar as SB 21 would lead to additional gun purchases it would, of course, mean more guns--even though licensed--in our society.

It seems to me that we have enough individuals already authorized to carry concealed handguns and that there is no need to extend the list further. I trust the committee will consider carefully who are the individuals and groups supporting this bill and what their motives may be.

Aside from those individuals who might receive a boost to their egos and those who profit from the sale and repair of guns, there may be cases where SB 21 might foster the deterrence of a crime. A would-be perpetrator of an armed robbery, for example, might be discouraged if he (or she) recognized that the intended victim had a gun in holster or in purse. However, the assailant in this case would probably already have drawn a weapon, and the victim's move toward holster or purse could well trigger a tragedy. In fact, in SB 21 I have yet to find a provision for a licensee actually to use a weapon. I presume such an act would open a whole new set of issues--self-defense and other points of law.

an
There may be times when/assailant, faking a gun or brandishing a less lethal weapon, would "abort the mission" upon detection of the intended victim's concealed pistol. Also, Section 20 of SB 21 requires the KBI to disclose, under certain circumstances, whether or not a given individual is a license holder. A crafty criminal could use such information to identify an individual to avoid. Nevertheless, the risk of accidental or deliberate shooting would seem to be more than the deterrent effect of the concealed weapon.

Sen. Federal & State Affairs Comm

Date: 2-19-97

Attachment: #20

If I were a license holder, relying on my weapon as an aid to security for my home and family, I would understandably like to have my weapon within reach. How then, could I keep it out of reach of my children? The problem already exists, as witnessed by the number of tragic shootings in the home. I think SB 21 would add to that problem. Weapons may still be stolen, and even well-trained licensees are not exempt from making regrettable snap judgments or from succumbing to impulsive anger.

I note that Section 37(d) makes it an offense for a licensee to carry a handgun while intoxicated. Fair enough, by definition (Section 1(h)1) an intoxicated person does not have "the normal use of mental or physical faculties". A felony charge might ensue, but by then so might death and destruction. Why increase the risk?

I think that if SB 21 were enacted, enforcement would be a nightmare. Section 31 would make it unlawful to carry a concealed handgun in, for example, a bar, a nursing home, an amusement park, a church or synagogue, a correctional institution, in a place of business where the management has banned the practice, or at a high school (or other) sporting event. (Members of this committee of the Senate may be relieved to know that as a bonified license holder I could not carry my handgun--concealed or not--when I came to testify at a hearing.)

Presumably, if I have been properly licensed (for a reduced fee since I am over 60) I could carry my gun from my office to the parking lot and also in my car, but if I stop at a nursing home to visit my mother or at the high school to watch my grand-daughter play basket ball, what do I do with the weapon? I don't consider it safe in my car. Will high schools and hospitals be required to provide secure cabinets or racks? Who will watch to insure that all weapons are checked at the door? Who will pay these people? In fact, who will know that I even have a weapon unless I knowingly pat my chest or my right hip (I'm lefthanded). Whom will I impress? Will the gun still be concealed if it makes a suggestive bulge in my coat or if the evening is warm and I'm jacketless in a lightweight summer shirt? If I carry my concealed weapon when I enter a state that does not allow the privilege, what do I do? SB 21 provides for reciprocity between states (Sec. 35). Perhaps that would cover the problem. Section 36 calls for disarming of license holders under certain circumstances. What if I do not wish to be disarmed?

To me it is apparent that enforcement of an enacted SB 21 would be both difficult and expensive. The extra responsibility placed on the KBI would certainly require more personnel, and, incidentally, give a major boost to government bureaucracy in Kansas. It seems to me that to make certain that the license holder remains qualified, review or re-examination would be needed at fairly frequent intervals, say, every two years. That is the length of the handgun instructor's certification (Sec. 18(d)). The bill specifies a four-year license for the gun carrier. It would seem even more important to keep the latter current, but even with the four-year license, consider the load on the KBI. (In that regard please note again the implications of at least these provisions of the bill: Sections 2, 3, 4, 5, 6(a) through (e), 7, 8, 10, 11, 12, 13, most of 15, Sections 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 30, and 35).

Beyond the detailed objections I have to a concealed weapons law is the strong feeling I have that our society is already too confrontational and that means must be found to reduce the number of unlawful weapons being carried rather than to increase the number carried by licensed citizens.

On a broader scale another objection I have results from the feeling I have that SB 21--in subtle, unintended way--would foster a "might makes right" philosophy in our young people. That point of view is already a widespread one, and it needs no re-enforcing. I see some hope in Section 18(b)2 and in such developments as the teaching of college courses in conflict resolution, but I see this bill, as a whole, as having an opposite effect.

So, as I see it, SB 21

does not address a real need;


might bring benefit to a few license holders, but this benefit would be more than balanced by the increased risk of shootings, both deliberate and inadvertent;

would be cumbersome, difficult to enforce, and expensive; and

would set a bad example in human relations.

Therefore, I oppose this bill. To me it would be more important to tackle the larger problem of reducing the number of weapons being carried illegally.

Respectfully submitted,


Stephen L. Stover
341 North 15th Street
Manhattan, Kansas 66502

February 8, 1997



900 SW Jackson, Suite 901N
Topeka, KS 66612-1290
(913) 296-1223
(913) 296-8059 (FAX)

Coordinator:
Jan Stegelman
Kansas Department of
Health and Environment

Executive Committee:
Dennis Cooley, MD
Medical Advisor
American Academy of
Pediatrics, Kansas
Chapter

Michele Hinds
Kansas State
Nurses Association

Steve Jensen
Kansas Highway Patrol

Judy Moler
Communities in Schools -
Kansas

Wendy Mosiman
Kansas Emergency
Nurse Association

Gene Neely
Kansas National
Education Association

Kathryn Nelick
Lawrence Chapter,
Kansas SAFE KIDS
Coalition

Bob Frederick
Athletics Director
University of Kansas
Chair Kansas Safe Kids
Cycle Smart Program

February 19, 1997

Written Testimony to the
Senate Committee on Federal and State Affairs

Senate Bill 21 Concealed Weapons

The Kansas SAFE KIDS Coalition, a group of 66 statewide businesses and organizations, is committed to the prevention of unintentional injuries to Kansas children, ages 0-14. Although the Coalition has no formal position on the concealed weapons bill, limiting the access of firearms to children and thereby reducing the number of unintentional firearm injuries to children is a priority of the Coalition.

Unintentional shootings account for more than 20 percent of all firearm-related fatalities among children ages 14 and under. Exposure to guns and access to a loaded firearm increases the risk of unintentional firearm-related death and injury to children. Furthermore, more than 70 percent of unintentional firearm shootings involve handguns.

Unfortunately, according to the Kansas Department of Health and Environment, one of the groups most impacted by deaths due to unintentional firearm injury in Kansas is males ages 5-14. In addition to the tragedy of a child gunshot victim, the cost to the family and society in both real and emotional terms is enormous. Lifetime medical cost for the average child hospitalized with a nonfatal gunshot wound exceeds \$27,000.

Adults often have unrealistic perceptions about a child's capability and behavior with regard to guns. There are misunderstandings about a child's ability to gain access to and fire a gun. Many children may be unable to distinguish whether a gun is real or a toy. Furthermore, adults often overestimate a child's ability to make sound judgments about handling a gun, and to consistently follow gun safety rules.

If gun usage is to be broadened in our state, there are resulting responsibilities on the part of both the gun owner and the state to ensure the safety of our youngest citizens. The provisions for gun safety and storage are minimal in SB 21. We propose that the provisions regarding gun storage be strengthened. While the bill provides for education on proper storage practices, adequate storage provisions, such as a gun safety container with a key or combination lock or a child-proof trigger lock are not required. We propose that the provisions regarding gun storage be strengthened to require proof of purchase of a safety device including storage devices. Furthermore, we propose that the adult owner be held responsible for an improperly stored gun.

We know from the 15 states who currently have similar laws, that child access prevention laws are a strong incentive for adults to properly store firearms out of the reach of children. In fact, during the first year of the Florida child-access prevention law, unintentional firearm-related fatalities among children ages 14 and under decreased by more than 50 percent.

All childhood deaths are tragic - but those that "could have been" prevented are the most tragic of all.

FOR MORE INFORMATION CONTACT:

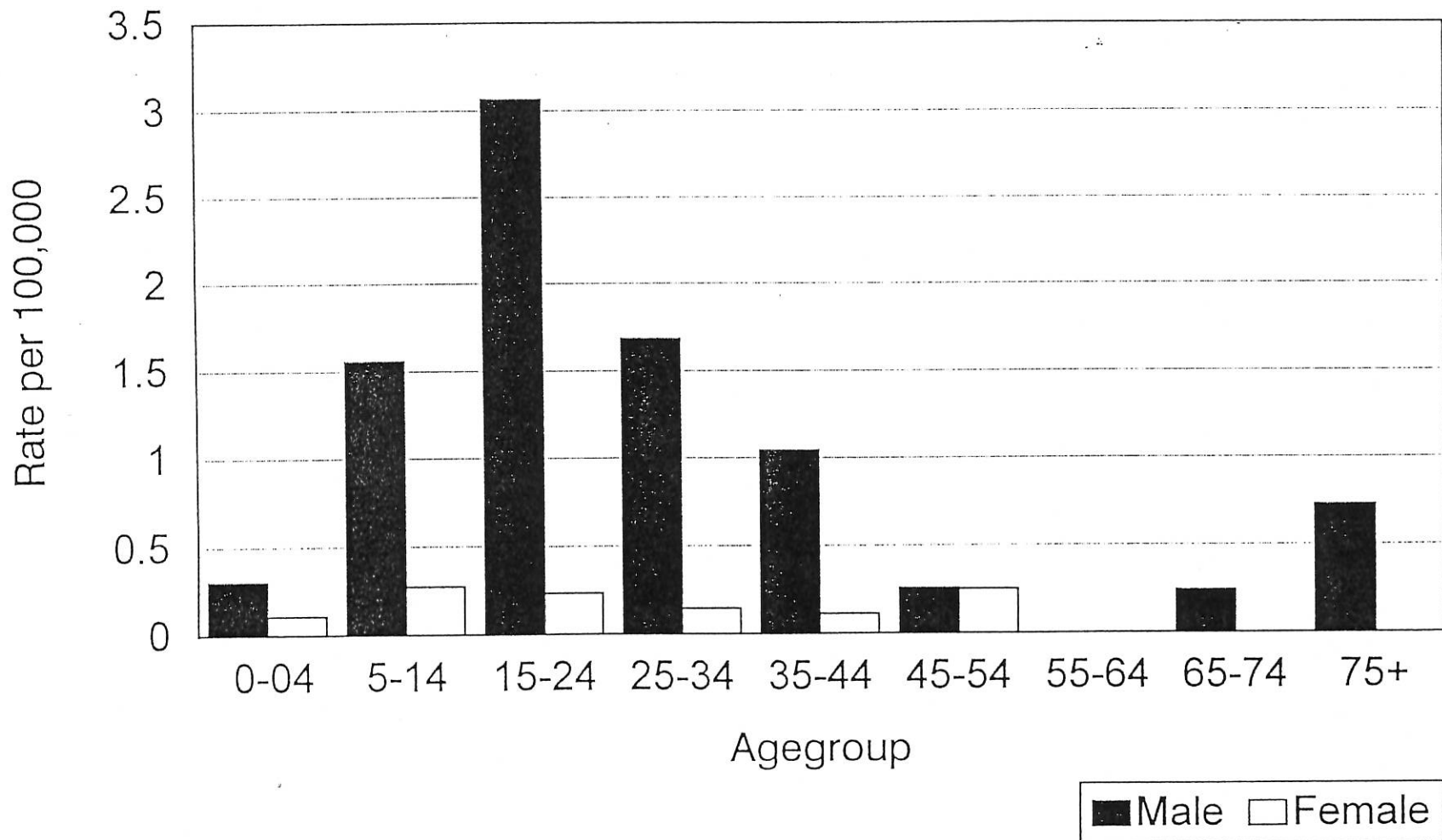
Jim Keating, Chair, Public Policy Committee (913) 437-6287



Sen. Federal & State Affairs Comm
Date: 2-19-97
Attachment: #21

Firearm Injury Deaths-Unintentional

Kansas 1985-94, n=170



Source: KDHE, Vital Statistics



900 SW Jackson, Suite 901N
Topeka, KS 66612-1290
(913) 296-1223
(913) 296-8059 (FAX)

Coordinator:
Jan Stegelman
Kansas Department of
Health and Environment

Executive Committee:
Dennis Cooley, MD
Medical Advisor
American Academy of
Pediatrics, Kansas
Chapter

Michele Hinds
Kansas State
Nurses Association

Steve Jensen
Kansas Highway Patrol

Judy Moler
Communities in Schools -
Kansas

Wendy Mosiman
Kansas Emergency
Nurse Association

Gene Neely
Kansas National
Education Association

Kathryn Nelick
Lawrence Chapter,
Kansas SAFE KIDS
Coalition

Bob Frederick
Athletics Director
University of Kansas
Chair Kansas Safe Kids
Cycle Smart Program

FACT SHEET

Child Access Prevention Laws

Child Access Prevention (CAP) laws, often referred to as "Safe Storage" laws, generally require adults to either store loaded firearms in a place that is inaccessible to children or use a device to lock the gun. If a child has access to an improperly stored gun, the adult owner is criminally liable.

UNINTENTIONAL FIREARM INJURIES

- Firearms are the sixth leading cause of injury-related deaths among children ages 14 and under. Every year, more than 200 children age 14 and under die of unintentional shootings, 3,600 children are hospitalized and an additional 15,000 receive medical treatment for gunshot wounds.
- Nearly half of U.S. homes have some type of firearm and one in four have a handgun.
- Adults often have unrealistic perceptions about a child's capability and behavior with regard to guns. There are misunderstandings about a child's ability to gain access to and fire a gun; to distinguish whether it's real or a toy; to make sound judgments about handling a gun and to follow gun safety rules.

STATES AND CITIES WITH CAP LAWS

- In 1989, Florida became the first state to pass a CAP law because of increasing unintentional firearm-related deaths among children following passage of a concealed weapon law.
- Since the passage of Florida's CAP law, 15 states and five cities -- including Wichita, KS --- have passed laws making it a crime to store a loaded firearm within a child's reach.
- The penalty varies from state to state from a felony or a misdemeanor or a fine.
- CAP laws only affect the unsupervised storage of loaded guns. They do not prevent children from lawfully using or possessing guns while under adult supervision (i.e., hunting or target shooting)

SAFE STORAGE

- CAP laws require that guns be safety secured - this can be done easily by storing the gun in a locked box, or by attaching a trigger lock, both of which are commonly available at gun stores.
- Trigger locks can preserve quick access (some trigger locks take only seconds to unlock) by the owner for self-protection while preventing young children from firing the locked gun. Trigger locks are relatively inexpensive, are easy to use, and can save lives.

CAP LAW IMPACT

- During the first year of enactment of the Florida CAP law, unintentional firearm-related fatalities among children age 14 and under decreased by more than 50 percent.
- Because Florida gun dealers are required to provide purchasers with a written warning about the law, and to place a warning sign at the counter, people are made aware of the problem, the law, and the solution before even buying a gun. CAP laws raise public awareness of the problem, and provide a simple solution. Owning a firearm requires taking precautions, especially when children are around.



UNINTENTIONAL FIREARM INJURY

Unintentional shootings account for more than 20 percent of all firearm-related fatalities among children ages 14 and under and have become more common as the availability of firearms has increased. Americans possess more than 223 million firearms, including 77 million handguns. Nearly half of all homes in the United States have some type of firearm and one in four homes have a handgun. The majority of gun owners keep firearms in the home for protection. A firearm bought for protection is more likely to be a handgun, found in a home with children and to be stored loaded and unlocked. As a result, a gun in the home for protection is rarely used for this purpose and is 43 times more likely to kill a family member or friend than to be used in self-defense.

Exposure to guns and access to a loaded firearm increases the risk of unintentional firearm-related death and injury to children. Unrealistic perceptions of children's capabilities and behavioral tendencies with regard to guns are common, including misunderstanding a child's ability to gain access to and fire a gun; distinguish between real and toy guns; make good judgments about handling a gun and consistently follow rules about gun safety. Important steps in preventing unintentional firearm-related death and injury among children are to promote the safe storage of firearms in the home and to reduce their availability and accessibility.

DEATHS AND INJURIES

- In 1993, more than 200 children ages 14 and under died from unintentional firearm-related injuries. Children ages 10 to 14 accounted for more than 60 percent of these deaths.
- Each year, an estimated 1,500 children ages 14 and under are treated in hospital emergency rooms for unintentional firearm-related injuries. Approximately 38 percent of these injuries are severe enough to require hospitalization.

WHEN AND WHERE FIREARM DEATHS AND INJURIES OCCUR

- Nearly all childhood unintentional shooting deaths occur in or around the home. Fifty percent occur in the home of the victim and nearly 40 percent occur in the home of a friend or relative.
- Most childhood unintentional shooting deaths involve guns that have been kept loaded and accessible to children. It is estimated that 3.3 million children in the United States live in households with firearms that are always or sometimes kept loaded and unlocked.
- One-third to one-half of all firearm owners keep firearms loaded and ready for use at least some of the time. Nearly 15 percent of firearm owners with children in their home currently keep firearms both loaded and unlocked.
- Most unintentional firearm-related deaths among children occur when children play with loaded guns.
- Unintentional shootings among children most often occur when children are unsupervised and out of school, and increase during the summer months (June to August) and the holiday season (November to December).
- More than 40 percent of unintentional shootings occur in the afternoon hours between noon and 5pm.
- More than 70 percent of unintentional firearm shootings involve handguns. When long guns (shotguns and rifles) are responsible for unintentional shootings, they most often occur in non-urban areas.
- Rural areas have higher rates of firearm ownership and unintentional firearm-related injuries than urban and suburban areas. Shootings in rural areas are more likely to occur outdoors and with a shotgun or rifle, as opposed to indoors and with a handgun in urban areas.

WHO IS AT RISK

- Firearm ownership in the home (especially a firearm kept loaded and unlocked) is associated with an increased risk of unintentional firearm fatalities among children. Owners of firearms in the home tend to be male, Caucasian and living in the South, in rural areas and in single family dwellings.
- Male children are far more likely to die from unintentional firearm-related injuries than females. Of those children ages 14 and under who are killed from an unintentional shooting, nearly 90 percent are male.

1301 Pennsylvania Avenue, N.W.
Suite 1000
Washington, D.C. 20004-1707
(202) 662-0600
(202) 393-2072 Fax

Honorary Chairs

Vice President Al Gore
and Tipper Gore

Chairman

C. Everett Koop, M.D.

President

Martin R. Eichelberger, M.D.

Executive Director

Heather Paul, Ph.D.

- African-American children, especially males ages 10 to 14, have higher death rates from unintentional shootings than Caucasian children.
- Children living in the South are three times more likely to die from unintentional firearm-related injuries than those living in the Northeast.
- Children living in rural areas have higher death rates from unintentional firearm-related injury.
- Nearly two-thirds of parents with school-age children who keep a gun in the home believe that the firearm is safe from their children. However, one study found that when a gun was in the home, 75 to 80 percent of first and second graders knew where the gun was kept.
- Generally, before age 8, few children can reliably distinguish between real and toy guns or fully understand the consequences of their actions.
- Children as young as age 3 are strong enough to pull the trigger of many of the handguns available in the United States.

FIREARM PREVENTION EFFECTIVENESS

- Two safety devices, trigger locks and load indicators, could prevent more than 30 percent of all unintentional firearm fatalities.
- Every unintentional shooting in which a child age 5 and under shot and killed themselves or others could have been prevented by a child-proof gun safety device.

FIREARM LAWS AND REGULATIONS

- Firearms are unregulated consumer products. There is no government agency that regulates the design of handguns for safety. In addition, most gun laws in the United States target gun users, not gun manufacturers.
- Currently, 15 states and five cities have enacted Child Access Prevention (CAP) laws, which may hold adults criminally liable for failure to either store loaded firearms in a place inaccessible to children or to use a safety device to lock the gun.
- In the first year following passage of Florida's Child Access Prevention law, unintentional firearm fatalities among children ages 14 and under declined by more than 50 percent.

HEALTH CARE COSTS AND SAVINGS

- The total annual cost of unintentional firearm-related deaths and injuries among children ages 14 and under is approximately \$3.5 billion. Children ages 5 to 14 account for more than \$3.2 billion, or nearly 95 percent, of these costs.
- Among children ages 14 and under, unintentional firearm injuries account for nearly half of the total cost of all firearm injuries, which include homicide, suicide and unintentional firearm injuries.
- Hospital treatment for a firearm-related injury averages between \$7,000 and \$14,000 per case.

PREVENTION TIPS

- Gun owners should always store firearms unloaded and locked up, with ammunition locked in a separate location, out of reach of children.
- Gun owners should use trigger locks, load indicators and other safety devices on all firearms.
- All parents should teach children never to touch a gun and to tell an adult if they find a gun.

9/96

For a complete listing of references cited, please call the Program Department at the National SAFE KIDS Campaign.



900 SW Jackson, Suite 901N
Topeka, KS 66612-1290
(913) 296-1223
(913) 296-8059 (FAX)

Coordinator:

Jan Stegelman
Kansas Department of
Health and Environment

Executive Committee:

Dennis Cooley, MD
Medical Advisor
American Academy of
Pediatrics, Kansas
Chapter

Michele Hinds
Kansas State
Nurses Association

Steve Jensen
Kansas Highway Patrol

Judy Moler
Communities in Schools -
Kansas

Wendy Mosiman
Kansas Emergency
Nurse Association

Gene Neely
Kansas National
Education Association

Kathryn Nelick
Lawrence Chapter,
Kansas SAFE KIDS
Coalition

Bob Frederick
Athletics Director
University of Kansas
Chair Kansas Safe Kids
Cycle Smart Program

Kansas SAFE KIDS Coalition

The Kansas SAFE KIDS Coalition, Inc., is a group of sixty statewide organizations and businesses that have joined together to protect Kansas children from unintentional injury. The Kansas SAFE KIDS Coalition is part of the National SAFE KIDS Campaign.

Injuries are the leading killer of Kansas kids. More children die annually from preventable, unintentional injuries than from all childhood diseases combined. This year, one child in four will suffer a preventable injury serious enough to require medical attention. The great tragedy is that most of these injuries can be prevented.

The primary activities and programs of the Kansas SAFE KIDS Coalition include:

PLEASE BE SEATED:

The PLEASE BE SEATED program addresses the leading cause of unintentional injury in Kansas children - **motor vehicle crashes**. The program is designed to keep our kids safe by involving all Kansas citizens in the education of the importance of child safety seats and safety belt use.

BUCKLE UP:

The BUCKLE UP program is designed to increase the number of children protected by a child safety seat or seat belt. Child safety seats are distributed to low income families with young children through this program.

CYCLE SMART:

The CYCLE SMART program is designed to increase the number of children protected by bicycle helmets by making reduced-price helmets available to Kansas children. Since the program's inception in 1994, approximately 25,000 helmets have been distributed to Kansas children.

GET ALARMED®:

The GET ALARMED® program is designed to increase the number of homes with young children that are equipped with working smoke detectors. Participating communities distribute and install smoke detectors or replacement batteries in low income homes.

SAFE KIDS CHECK √ AMERICA

The SAFE KIDS Check √ America program is a cooperative effort with local schools. The program includes a ten-item checklist completed by students and family which evaluates the safety of the child's home and community. A variety of educational materials and annual prizes are offered to participating schools.

Public Policy:

The Kansas SAFE KIDS Coalition adopts on an annual basis a public policy platform and public policy priorities. The Coalition is currently working on statewide smoke detector legislation.

Local SAFE KIDS Coalitions:

Kansas currently has three local SAFE KIDS Coalitions: Wichita Area SAFE KIDS Coalition, Lawrence SAFE KIDS Coalition, and the Greater Kansas City SAFE KIDS Coalition. In addition, the Kansas SAFE KIDS Coalition has five local chapters in Salina, Barber County, Topeka, Ford County, and Manhattan. Coalition activities are undertaken through the local Coalitions and chapters, as well as by Coalition member organizations.



KAPS

KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

2601 Anderson Ave., Suite 200
Manhattan, Kansas 66502-2876
Voice/TDD (913) 776-1541
Voice/TDD (800) 432-8276
Fax (913) 776-5783

501 W. Jackson, Suite 425
Topeka, Kansas 66603
Voice/TDD (913) 232-0889
Fax (913) 232-4758
E Mail jgermer@idir.net

Board of Directors:

Robert Ochs, President
Sharon Joseph
Pat Terick

Josephine Patten, Secretary/Treasurer
Richard Gutierrez
Tim Steininger

Martha Blue-Banning
Jane Rhys
Kate Shaer

Reply To: Topeka Office

MEMO TO: Senate Federal and State Affairs Committee
FROM: Kansas Advocacy & Protective Services, Inc.
RE: SB 21-Concealed Weapons
DATE: February 10, 1997

Introduction

My name is Sherry Diel. I am an attorney with Kansas Advocacy and Protective Services, Inc. (KAPS). KAPS is a federally funded non-profit corporation which serves as the designated protection and advocacy agency for persons with disabilities for the state of Kansas. There are similar type organizations in each state and territory of the United States. Pursuant to federal law, KAPS is authorized to pursue legal, administrative and other appropriate remedies on behalf of persons with disabilities.

KAPS' Position on SB 21

KAPS is not here today to advocate for or against SB 21. Our Agency has no intention of entering into the debate of whether a person should be entitled to carry a concealed weapon.

We are here today to express concerns about the specific language of SB 21 as it applies to persons with a mental illness. We believe that the definition of "unsound mind" is discriminatory on its face and is far too broad as to its application.

First, the reference to "unsound mind" is inappropriate. The majority of persons with mental illness as defined by SB 21 are law abiding, tax paying citizens; such Kansas citizens should never be referred to as being of "unsound mind".

Second, the definition of "unsound mind" is far too broad. As subparagraph (j)(1) currently provides, a person with a mental illness who has been adjudicated mentally incompetent through a

civil or probate proceeding or who has been involuntarily committed to a psychiatric facility is forever deemed to be a person of unsound mind. We believe it would be much more appropriate to place a reasonable time frame on this qualification factor. For instance, a person who has been adjudicated mentally incompetent or subject to involuntary commitment may not apply for a concealed weapon until the disability is removed or within one year of the termination of the commitment period.

Subparagraph (j)(2) is so broad that it will cover a person who a physician believes spends his money foolishly or who the physician feels is eccentric. Due process requires that there be some type of adjudicatory finding after an opportunity to be heard before a person can be deemed to be incompetent to care for their self or their personal affairs.

Subparagraph (j)(3) likewise places full discretion in the hands of a physician if a person has ever been diagnosed with depression, manic depression or post-traumatic stress syndrome without any adjudicatory finding concerning the person's present mental condition. Further, the person must be off medication before a physician can certify that the person is no longer disabled. With the advances of psychotropic medication, many persons with mental illness are able to live and work in the community with no ill effects. Many times problems arise with respect to competency to handle one's affairs or to care for oneself only when the person goes off their medication.

I am an excellent example of how far the language of SB 21 reaches, without proper cause. I was diagnosed with depression several years ago caused by stress related to my daughter's health. At seven months of age my daughter was diagnosed with cardiomyopathy, a rare heart defect that oftentimes causes death and many times requires a heart transplant. At 15 months, she was diagnosed with a rare bone disease. We were first told that 85% of the children with her diagnosis die before the age of five. After several years of chemotherapy and radiation treatments, I am happy to report that my daughter is 5 1/2, and her bone disease is in remission. Thus far, we have been able to control her heart condition through medication. However, as a mother, I did not deal with the years of fighting for my daughter's life without antidepressant medication. Under the current language of the bill, I am of "unsound mind". For those of you on the Committee who know me, nothing could be further from the truth.

Furthermore, we believe that there are very few physicians in the State who would ever certify any person, whether they suffer from a mental illness in the past or not, to carry a concealed weapon because of the liability factors involved. We believe that subsections (j)(2) and (3) will, for all practical purposes, operate as a complete bar for all persons who fall into the broad categories defined by this bill.

I thank the Committee for considering our Agency's views, and I will be happy to address any questions from the members.



EMERGENCY NURSES ASSOCIATION

216 Hill Road
Park Ridge, IL 60067-3636
Telephone • 847/693-9400
Fax • 847/698-9406

KANSAS STATE COUNCIL
EMERGENCY NURSES ASSOCIATION

FEBRUARY 14, 1997

WRITTEN TESTIMONY TO SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
REGARDING SENATE BILL 21

Dear Committee Members:

On behalf of more than two hundred members of the Kansas Emergency Nurses Association, we would like to inform you of our concern over firearms and the injuries we see as a result of their wounding forces. While we have no official position on the concealed weapon question, we would like to make you aware of our position on Injury Prevention regarding Firearm Responsibility and Safety. That position was voted on and passed at our National Assembly in 1994. The full Position Statement is attached. The Firearm Responsibility and Safety section is on page 54. This portion of the statement reflects our concern in several areas to the safety of children.

Emergency Department nurses, more than some, have witnessed the tragic results that sometimes occurs when young people have access to firearms. We would petition the committee to consider some type of trigger locking devices so that a child could not be exposed to a functioning weapon inadvertently.

One of our recent safety campaigns involved the distribution of these types of safety devices, but there is not widespread usage, nor the knowledge necessary for their effectiveness. As our statement mentions, we would also support educational efforts that instruct adults on the proper use, handling and storage of firearms, including the type of efforts that would prevent children from being injured.

We realize that issues surrounding firearms and legislation are very emotional, but our emphasis and interest is in injury prevention. We will appreciate any efforts to address our area of concern.

Respectfully submitted for the Kansas State Council of Emergency Nurses Association

Darlene S. Whitlock RN, CEN
Board Member
415 Aquarius
Silver Lake, Kansas 66539
913-582-5122

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: # 23

EMERGENCY NURSES ASSOCIATION POSITION STATEMENT

INJURY PREVENTION

STATEMENT OF PROBLEM

Injuries are the leading cause of death from ages 1 - 44. Approximately 62.5 million persons seek medical attention for nonfatal injuries each year. Over 150,000 people have died as a result of injuries in 1990. Approximately 2/3 die from unintentional injuries and 1/3 die from intentional injuries. Injury prevention as a public health concern, is an identified priority in the year 2000 Health Objectives. Unintentional injuries are classified as transportation, recreational, occupational and residential related. Intentional injuries are classified as homicide, suicide, abuse and assault. It must be noted there is a relationship between alcohol and drug ingestion and the rate of both intentional and unintentional injury.

◆ TRANSPORTATION

- Motor Vehicle Crashes (MVC's) are the leading cause of death for ages 1-34.
- Each year more than 500,000 people require hospital admission as a result of MVC's.
- In 1991, the following were alcohol related
 - a. 19,900 MVC deaths
 - b. 318,000 MVC injuries
 - c. 1.8 million (DUI) arrests
- 52% of fatally injured passenger car occupants were unrestrained.
- 1,402 people died as a result of not wearing a helmet in a motorcycle crash.
- At the 1992 Automotive Medicine meeting, it was reported that occupants riding in the back of pickup truck sustained more ejections and severe injuries than occupants of other vehicles.

◆ RECREATIONAL

- There are nearly 600,000 ED visits from bicycle related injuries annually with head trauma being the most serious and frequent injury.
- In 1990, 43% of all bicycle related deaths were in people under the age 19 and approximately 917 fatalities occurred as a result of bicycling crashes.
- Alcohol was involved in 38.3% of all pedicyclists crashes (driver or cyclists).
- In 1991, injuries related to personal watercraft numbered 3,355.
- Over half of the motorboat and personal watercraft operators involved in accidents have no formal instruction on how to operate the vessel and the predominant cause of accidents is improper operation, operator error and alcohol consumption.

◆ FIREARM INJURY

- 15,000 people were killed as result of unintentional discharge of firearms 1991.
- Violence ranks 12th as a cause of death in the United States.
- Shooting deaths increased by 60% from 1968 - 1991.

**MERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

- The presence of a gun in the home is associated with a 5 times greater risk of suicide and a 3 times greater risk of homicide for household members.
- Between 1979-1991, approximately 50,000 children were killed by guns.
- ◆ **HOMICIDE**
- Child homicide is the fifth ranked cause of death in the 1-18 year old group.
- In Black males between 15-24 years old homicide is the leading cause of death.
- ◆ **SUICIDE**
- Suicide ranks 8th as a cause of death in the United States comprising approximately 20% of all injury related deaths in 1988.
- Gunshot suicides between the ages of 10-24 years have increased 139% between 1973-1982.

ASSOCIATION POSITION

ENA supports the development of a collaborative strategic plan aimed at controlling and preventing injuries which are designed to reduce the incidence and severity of injuries. The plan should include strategies targeting education/behavioral changes, legislation/enforcement, and engineering/technology approaches. The goal of this collaboration is to identify specific problems, develop, implement and evaluate control strategies targeted at reducing the incidence and severity of injuries. Improvement requires the combined efforts of many disciplines including: medicine, public health, education, public policy, law, engineering, public safety, behavioral sciences, social sciences, economics, and other.

ENA encourages the development and maintenance of data bases such as statewide trauma registries, hospitals and ED discharge records which contain International Classification of Disease Etiology Codes (ICD - E) 9 Codes. Injury prevention programs should focus on high risk, problem prone areas identified through the data base.

ENA believes injury prevention programs and research, targeting specific injuries in defined populations should be formulated with measurable goals and objectives.

ENA endorses the use of three strategies for injury control:

1. **Engineering/technology** to alter the product or environment to protect individuals at risk with safety features such as motor vehicle air bags, roll bars on trucks, restraint devices for children, shatterproof glass, breakaway bumpers, etc.
2. **Legislation/enforcement** which mandate certain behaviors, such as motorcycle helmet, inclusion of regulated warnings in manufacturer's literature specific to both dangers and liabilities, or building codes requiring smoke detector installation.

**MERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

3. **Education/behavioral changes**, aimed at changing behavior including bicycle safety and helmet use, educational programs for preventing driving while intoxicated, peer-to-peer educational programs, bicycle helmet use, watercraft safety.

ENA believes that the evaluation of injury programs is essential to document program effectiveness. Evaluation strategies should be based on process and outcome evaluations utilizing both baseline and outcome role.

ENA believes that injury prevention is part of the community outreach component of the emergency nurses role.

RATIONALE

Data supports the reduction not only of the incidence of injuries, but also the severity and cost of injuries when prevention/control strategies are implemented in a system-wide plan.

SELECTED TOPICS RELATED TO INJURY PREVENTION

DRIVING WHILE CHEMICALLY IMPAIRED

ASSOCIATION POSITION

ENA supports:

1. **Engineering/technology** development that impedes a person's ability to drive in an impaired state, such as devices attached to auto ignitions, that upon detection of alcohol levels will prevent the car from starting.
2. **Legislation/enforcement** interventions, such as reducing the legal blood alcohol level of intoxication, suspending drivers licenses for DUI, raising the legal drinking age to 21 nation-wide, zero tolerance for those less than 21, increasing the tax on alcoholic beverages, other measures which could include implementing mandatory jail sentences for first DUI offenses, and instituting roadside sobriety checks.
3. **Education/behavioral changes** designed to change human behavior, such as Emergency Nurses Cancel Alcohol-Related Emergencies (E.N.C.A.R.E.), Students Against Drunk Driving (S.A.D.D.), Mothers Against Drunk Driving (M.A.D.D.), "Just Say No", Drug Awareness Related Education (D.A.R.E.) to keep kids off drugs. Educational programs should include prescription drugs, including synergistic effects with alcohol, voluntary curtailments of alcohol advertisements directed at young people; eliminating alcohol sponsorship of athletic events; and appealing to celebrities to support this cause.

**EMERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

MANDATORY USE OF SEATBELTS

ASSOCIATION POSITION

ENA supports:

1. **Engineering/technology** geared to increase occupant safety and reduce injuries, such as safety belts, supplemental restraint systems, automobile design and child passenger restraint systems.
2. **Legislation/enforcement** interventions to actively support "mandatory use of seat belt" laws in order to save lives and abate injuries.
3. **Educational** measures designed to change human behavior regarding the use of seatbelts and child safety restraints devices.

RESTRICTION OF PASSENGERS IN BACK OF PICKUPS

ASSOCIATION POSITION

ENA supports:

1. **Legislative/enforcement** aimed at restricting and/or banning passengers in the back of pickup trucks.
2. **Educational** measures designed to change human behavior such as the promotion of pickup truck safety to deter riding in the back of pickup trucks.

HELMETS FOR MOTORCYCLES

ASSOCIATION POSITION

ENA supports:

1. **Engineering/technology** geared to increase safety and reduce injuries, such as approved helmets for all individuals driving or riding a motorcycle, motorbike, moped or other motorized cycle.
2. **Legislative/enforcement** which supports mandatory helmet laws and recommends reenactment of such laws in those states where they have been repealed.
3. **Educational** measures designed to change human behavior such as programs aimed at motorcycle safety.

**EMERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

BICYCLE SAFETY AWARENESS

ASSOCIATION POSITION

ENA supports:

1. **Engineering/technology** aimed at mandatory standard for protective head gear performance and child carrier design.
2. **Legislative/enforcement** supports legislation mandating the use of helmets by all riders and passengers.
3. **Educational** measures aimed at bicycle safety, the use of helmets and other protective gear by all bicycle riders and passengers through programs such as Safe Kids bicycle safety awareness, safety rodeos, and other local safety coalitions.

PERSONAL WATERCRAFT SAFETY

ASSOCIATION POSITION

ENA supports:

1. **Engineering/technology** geared to increase safety and reduce injuries for personal watercraft safety.
2. **Legislative/enforcement** aimed at reducing the number of injuries related to personal watercraft such as minimum age laws, DUI, mandatory helmet safety, and use of personal floatation devices.
3. **Educational** programs targeting public awareness regarding personal watercraft safety and injury prevention.

FIREARM RESPONSIBILITY AND SAFETY

ASSOCIATION POSITION

ENA supports:

1. **Legislative/enforcement** which:
 - holds adults responsible for injuries sustained from a minor in possession of a firearm.
 - supports a 7 day waiting period for the purchase of handguns.
 - supports a ban on the sale of assault weapons.
 - supports gun safety measures.
 - prohibits the possession of firearms by minors who are not under the supervision of an adult.
 - prohibits the sale of firearms to minors.
 - prohibits the manufacture and sale of realistic looking toy handguns for children.

**EMERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

2. **Educational** efforts that instruct adults on the proper use, handling, and storage of firearms. Instruct children that guns are not toys.
3. **Engineering/technology** aimed at trigger locking devices.

REFERENCES

- American Journal of Preventive Medicine. The National Committee for Injury Prevention and Control (1988). Injury Prevention: Meeting the Challenge.
- ANA 1992 House of Delegates: Gun Control Action Report.
- Baker, S.P., O'Neill, B., Ginsburg, M.J., & Li, Gouchua, (1992). The injury fact book (2nd ed.). New York: Oxford University Press.
- Baker, S.P., Teret, S.P., & Dietz, P.E. (1980). Firearms and the public health. Journal of Public Health Policy, Sept. 224-229.
- Baker, S.P. & Waller, A.E. (1989). Childhood injury: State-by-state mortality facts. Baltimore, MD: The John Hopkins Injury Prevention Center.
- Callaban, B. (1990) Armed American, demands on the EMS system. EMS 24-26.
- Center for Disease Control and Prevention. (June 1993). Injury Mortality: National summary of injury mortality data 1984-1990. U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention.
- Committee on Adolescence. (1992, April). Firearm injuries affecting the pediatric population. Pediatrics, 89(4). 784-787.
- Committee on Injury and Poison Prevention. (1992, April). Firearms and adolescents. Pediatrics, 89(4). 784-787.
- Committee on Trauma Research Commission on Life Sciences, National Research Council and The Institute of Medicine. (1985). Injury in America: A continuing public health problem. Washington D.C.: National Academy Press.
- Emergency Nurses Association (1992). The Emergency Nurses Guide to Child Safety in the Home. Chicago, IL: Emergency Nurses Association.
- Emergency Nurses Association (1992). Give the Gift of Safety: The Emergency Nurses Guide to Gifts that Promote Safety and Prevent Injury. Chicago, IL: The Emergency Nurses Association.

**EMERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

General Accounting Office (GAO). (1991, September 24). Testimony: Accidental Shootings: Data on Children.

Isaacs, M.R. (1992). Violence: The impact of community violence on African American children and families. Arlington, VA: National Center for Education in Maternal and Child Health.

Moore, J., Campana, J. et al (1992). Behaviors related to unintentional and intentional injuries among high school student - United States - 1991. Journal of School Health, 62(9). 439-443.

National Highway Traffic Safety Administration (1991). Fatal Accident Reporting System. Washington D.C.

NEISS Product 3292 Consumer Product Safety Committee.

Rice, D.P., & Mackenzie, E.J. (1989). Cost of injury in the United States: A Report to Congress 1989. San Francisco, CA: Institute for Health and Aging, University of California and Injury Prevention Center, The John Hopkins University.

Rosenberg, M.L. & Fenley, M.A. (1991). Violence in America: A public health approach. New York: Oxford University Press.

Rosenberg, M., Mercy, J. & Jouk, V. (1991). Guns and adolescent suicides. JAMA, 266(21). 3030.

Schwab, C.W. & Kauder, D.R. (1994). Handgun violence in America: A bibliography. Eastern Association for the Surgery of Trauma Violence Prevention Task Force Subcommittee for Violence Resources. Unpublished report.

Second World Conference on Injury Control. Injury Control in the 1990's: A National Plan for Action. May 1993. Atlanta: CDC and Prevention.

Specter, M. (1989, June 1). Koop urges tougher Laws, ad cubs, higher taxes to fight drunken driving. Washington Post.

Speidel, J.S. & Henderson, D.P. (eds) (1991). Emergency Medicine Services for Children: A Report to the Nation. Washington D.C.: National Center for Education in Maternal and Child Health.

Spivak, J., Prothrow-Smith, D., & Hausman, A. (1988). Dying is no accident: Adolescents, violence, and intentional injury. The Pediatric Clinics of North America. 1339-1342.

The National Committee for Injury Prevention and Control (1989). Injury prevention: Meeting the challenge. American Journal of Preventative Medicine. Supplement 5-3.

**EMERGENCY NURSES ASSOCIATION
POSITION STATEMENT
INJURY PREVENTION**

The Committee on Trauma Research. Commission on Life Sciences, National Research Council and The Institute of Medicine. (1985). Injury in America: A Continuing Public Health Problem. Washington D.C.: National Academy Press.

U.S. Department of Health and Human Services, Public Health Services (1990). Healthy people 2000: National health promotion and disease prevention objectives. DHHS Publication No. (PHS) 91-50212. Washington D.C.: U.S. Government Printing Office.

Widner-Kelberg, M. (1991). The nurse's role in pediatric injury prevention. Clinical Care Nursing Clinics of North America, 391-395.

Winternmute, G., Teret, S., Kraus, J., Wright, M., & Bradfield, G. (1987). When children shoot children. JAMA. 257(22). 3107-3109.

(June 22, 1992) Medicine and Health Perspectives: Public Health Attacks Violence Developed.

Revised and Approved by the ENA Board of Directors: September, 1994 .

© Emergency Nurses Association, 1994



Fraternal Order of Police
Kansas State Lodge



Chairperson Olson and members of the Senate 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, not in opposition to a reasonable, well thought out, carefully implemented statute in regards to the citizens ability to carry a concealed firearm for legitimate purpose and self-defense.

Senate Bill 21 appears to be well intended however we are of the opinion that House Bill 2159 is the more practical of the two proposals.

Respectfully submitted,

Joseph T. Gimar
Kansas State Lodge
Fraternal Order of Police

Sen. Federal & State Affairs Comm.
Date: 2-19-97
Attachment: # 24