

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on February 18, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Joann Freeborn- excused

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Representative Candy Ruff

OPPONENTS:

Kelly Johnston, Attorney, representing citizens for Safe State Kansas
Sandy Barnett, Executive Director, KS Coalition Against Sexual and Domestic Violence
Kim Gulley, League of KS Municipalities

*written testimony only

*Keith Faddis, City of Overland Park

*Mike Taylor, Unified Government of Wyandotte County

*Ashley Sherard, Lenexa Chamber of Commerce

*Debra Kinnane, M.D., President, Greater Wichita Pediatrics Society

*Matt Greene, Wichita Coalition Against Gun Violence

*Wes Ashton, Overland Park Chamber of Commerce

*Janis McMillen, President, The League of Women Voters of Kansas

PROPONENTS: Testimony will be heard on February 19, 2004

NEUTRAL:

Mark Desetti, Kansas National Education Association

Kyle Smith, Kansas Bureau of Investigation

Attending: See Attached List.

HB 2798 - Personal and family protection act: licensing to carry concealed firearms

The Chairman opened the hearing and advised the Committee would hear testimony from opponents and neutral parties today, followed by the proponents tomorrow, February 19.

Mr. Mills briefed the committee on the bill, which sets up a procedure to allow certain persons to carry concealed handguns. He provided qualifying details for a licensee, as well as the necessary requirements before applicants would be allowed to carry concealed weapons. He delineated exemptions to the act and locations where licensees would not be authorized to carry weapons.

Representative Ruff, a sponsor of the bill, explained the history of **HB 2798**, stating that Representative Hayzlett and she had worked very hard on crafting the bill before them. This bill is different than bills the Committee had previously heard in 1997 and 1999. As an proponent of the bill she would present written testimony at tomorrow meeting.

OPPONENTS:

Kelly Johnston, Attorney, Wichita, stated that Safe State Kansas is opposed to the entire concept of legally carrying concealed weapons - except by commissioned law enforcement officers (Attachment 1). The proponents of **HB 2798** have failed to demonstrate that there is a serious, pervasive problem with the

CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on February 18, 2004 in Room 313-S of the Capitol.

current way of life in Kansas that calls for this kind of legislative action. His testimony included fifteen reasons why Kansans do not want concealed carry weapons.

Discussion followed regarding: possible increase in guns throughout the state; was the intent of bill vigilante in nature or would it meet the need for self-protection; statistics of other states with concealed carry laws; concern over public policy of taking firearms on the street; lack of law enforcement officers objecting to the legislation; and cases before the federal courts regarding the constitutionality of the law.

Sandy Barnett, Kansas Coalition Against Sexual and Domestic Violence, opposed **HB 2798** citing evidence that women are at three times greater risk of being killed when guns are in the home than when guns are not as easily accessible (Attachment 2). She questioned whether women in Kansas would be safer from sexual assault if they were able to carry a concealed weapon or would victims be held criminally liable for shooting injuries or deaths of perpetrators?

Kim Gulley, The League of KS Municipalities, testified that The League takes a strong position in favor of constitutional home rule and local control (Attachment 3). She offered two key objections to the bill in its current form: Preemption of Local Ordinances - current and future city ordinances regarding the concealed carry of weapons are declared to be invalid; Municipal Buildings and Property - City halls, and a number of city-owned properties including public works facilities and public parks are not enumerated as protected locations.

*Written testimony only:

*Keith Faddis, City of Overland Park, raised four areas of concern: Safety, Training, Costs and Practicality as reasons they oppose the bill (Attachment 4).

*Mike Taylor, Unified Government of Wyandotte County, wrote that the Unified Government opposes legislation allowing the carrying of concealed weapons and opposes any legislative effort to restrict or preempt local home rule authority to regulate firearms (Attachment 5).

*Ashley Sherard, Lenexa Chamber of Commerce, presented written testimony stating that due to its potential impact on liability issues and on quality of life, the Chamber urged the committee not to recommend **HB 2798** favorable for passage (Attachment 6).

*Debra Kinnance, M.D., F.A.A.P., President of the Greater Wichita Pediatrics Society, provided written testimony expressing their opposition to the concealed-carry act (Attachment 7). As advocates for children, they support measures to protect them from accidental and non-accidental gun injuries.

*Matt Greene, The Wichita Coalition Against Gun Violence, presented testimony regarding their opposition to **HB 2798** (Attachment 8). His testimony includes five exhibits that were part of a summary report he wrote to the Wichita Council Against Gun Violence.

*Wes Ashton, Overland Park Chamber of Commerce, expressed their opposition to the concepts embodied in **HB 2798** (Attachment 9). They wrote of concerns for business owners who may place a sign in their business forbidding the carrying of concealed weapons, however questioned how it would be enforced.

*Janis McMillen, President, The League of Women Voters of Kansas, submitted testimony opposing **HB 2798**, citing the issue was the safety and security of their citizenry (Attachment 10).

NEUTRAL

Mark Desetti, KNEA, testified that although KNEA does not have an opinion on whether concealed firearms should be allowed in Kansas, they do have a position on firearms and their students (Attachment 11). They believe **HB 2798** falls short of ensuring that school employees and students are protected. He stated that the new section 10, while prohibiting carrying weapons into certain places, i.e., school athletic events or school facilities, they submit that those are not the only places in which school activities occur.

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Kyle G. Smith, Kansas Bureau of Investigation, testified as a neutral party on **HB 2798** (Attachment 12). He spoke in order to clarify their concerns over being the administrative arm of the bill. KBI does not have extra personnel or resources to absorb the substantial demands this legislation would place on the licensing agency. They suggested that perhaps some other agency that already had staff and experience with licensing and administrative law might be a better candidate. Discussion followed regarding technical aspects of the bill. He declined to respond to a question regarding which agency would be appropriate. Mr. Smith explained the projected financial impact of the bill on KBI, based on the projection of 15,000 to 20,000 applications.

The hearing was closed for the day to be continued tomorrow, February 19, 2004.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Feb. 18, 2004

<u>NAME</u>	<u>REPRESENTING</u>
Anna Holcomb	Now Lobbyist
JOYCE GROVER	KCSDV
Sandy Barnett	KCSDV
Vera + John DeMott	Private Citizens, Lawrence
Alan Anderson	KADR - Vehicles
TERRY MITCHELL	"
EVALIN M'CLAIN	OVERLAND PARK, KS
ED ROWE	" " "
Doris Slocombe	Emporia, KS
Joe Herold	self
Tom Burgess	Burgess Assoc.
Andy Shaw	KS Lodge of FOP
Randray Caplow	Intern
Kelly Arnold	Wichita
TOM MACKLEY	SALINA KS
Wanda Mackley	Salina KS
Cathy Bennett	Greater KC Chamber
Kelly Finney	Ks. Public Health Assn.
Keith Haxton	SEAK
MONICA FOREMAN	LEWEXA, KS (KU student)
Lindsey Ortiz	" " "



Safe State *Kansas*

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Karole Bradford

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

CRITIQUE OF HOUSE BILL 2798

February 18, 2004

Prepared by Kelly W. Johnston
for Safe State Kansas

Council of Directors

* Kelly W. Johnston
Chairperson

Elizabeth Kinch
Past Chair

Pat Cameron

Matt Greene

Ivonne Goldstein

Liz Hicks

E.L. Lee Kinch

Dr. Manfred Menking

Rev. Sam Muyskens

Karen O'Connor

Peg Vines

Al Vopata

Though not intended as a section-by-section analysis, the following may be used to understand the most controversial features of the proposal to legalize the carrying of concealed weapons (CCW) in Kansas. At the outset, please understand that Safe State Kansas (SSK) is opposed the entire concept of legally carrying concealed weapons - except by commissioned law enforcement officers.

Community Liaison:

Trevor Foreman
Newton

Eleanor Harris
Leawood

Kerry Johnston
Andover

Rod Nitz
Salina

Steve Robinson
Lawrence

Tom & Susan Maloney
Towanda

Carolyn Weinhold
Topeka

1. **KANSANS DO NOT NEED CCW:** Proponents of this bill have failed to demonstrate that there is a pervasive and overwhelming problem with our way of life in Kansas that calls out for this kind of legislative reaction. Crime rates are not rampant; indeed, we have enjoyed plummeting crime rates in Kansas since 1993. Like Missouri, it has been illegal to carry concealed weapons in Kansas throughout recent history, yet our crime rates have dropped substantially over the past decade. As a matter of fact, crime rates have dropped significantly since Governor Graves in 1997 vetoed the last concealed carry bill to pass the legislature. According to The Hutchinson News, the state's crime index – total offenses per 1,000 population – stood at 51.6 in 1997. The violent-crime index in 1997 was at 4.3, and Kansas recorded 150 murders. By 2001, the crime index had dropped to 40.8, the violent crime-index had dropped to 3.8, and Kansas reported 142 murders. (The Hutchinson News, Online Edition, Wednesday, October 1, 2003). Our law enforcement officials are not in need of citizen-vigilantes to help enforce the law.

Honorary Board

Beth King

John Bell

Rev. Max Clayton

Deacon Ron Ealey

Linda Weir-Enegren

Connie Gamm

Gary Gamm

Rev. Tyrone Gordon

Carol Konek, Ph.D.

Carol Rupe

Bob Scott

Virginia White

Margelee Wright

2. **KANSANS DO NOT WANT CCW:** Proponents of this bill have not demonstrated that a majority of Kansans desire passage of a concealed carry law. I am unaware of any non-partisan state-wide polling on this issue since 1997, but a K-State study at that time proved that 68% of Kansans did not want concealed carry. More recently, by a 44,000 vote margin of victory, citizens in Missouri voted that they did not want concealed carry. Though the Missouri legislature has more recently ignored that mandate, and passed a CCW bill, I submit that Missourians are of a similar mindset as Kansans.

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3. **MAY VS. SHALL ISSUE:** The bill proposes to give to the KBI the duty of issuing licenses, conducting background checks, overseeing training courses, and generally trying to make sure that unsafe and dangerous people don't acquire CCW licenses. A definite public safety responsibility is being placed on the KBI. But this bill does not give to the KBI the authority and discretion to withhold issuance of a license to a person who is considered dangerous, like possibly another Tim McVeigh, but who still meets the eligibility requirements. Though Kansas is only one of 5 states (Kansas, Nebraska, Missouri, Illinois and Wisconsin) that does not permit CCW, there are 9 other states (so-called "may issue" states) that allow their licensing authority to refuse to issue a permit in the interest of public safety. Why do the proponents of this bill distrust the KBI to use proper discretion to safely issue CCW permits?

4. **RECIPROCITY:** If this bill becomes law, our borders will automatically and immediately be opened to licensees from all across the country to bring their hidden firearms to Kansas. These licensees would not be required to register with the KBI, and the KBI would have no idea whether some of these licensees might be under indictment or investigation in another state though not yet convicted. How would be handled CCW carriers from Vermont where licenses are not issued? How are these strangers going to know where in Kansas it is illegal to CCW? From a public safety standpoint, it doesn't make sense to require Kansans to go through the KBI to acquire a CCW license, but not a licensee from New Jersey. Iowa, New Mexico, Nevada and Connecticut are just a few of the states that do not allow reciprocity.

5. **BACKGROUND CHECKS;** Although there are a number of categories of people who will be disqualified from acquiring a CCW license because of the background checks, it is a myth that only stable, law-abiding citizens will pass these eligibility tests. It is a myth because the ability to successfully discover an ineligible applicant depends on the comprehensiveness of the record-keeping and record-retrieval systems. How, for example, can the KBI comprehensively rule out every applicant to not be an alcoholic? [New Section 4(a)(5)(B)] It will be equally difficult to reliably double-check for mental illness or drug abuse. When you also consider that the KBI will be mandated to issue a license within a definite period of time, even if their background-checking is incomplete, the risk should be obvious that unqualified perhaps dangerous people are going to be unintentionally issued licenses.

6. **NRA TRAINING COURSE:** New Section 4(b)(1) requires the KBI to oversee the adequacy of the training courses that CCW licensees will have to meet. Yet in subsection (D)(ii) the KBI is mandated to accept as adequate and legitimate "a weapons course certified or sponsored by" the NRA. This bill requires the KBI to ensure that CCW licensees are being properly and legitimately trained, but then allows the KBI to ignore the specifics of a training session an applicant will claim to have completed that was "sponsored" by the NRA. Whatever training course standards the KBI might find adequate and appropriate the NRA courses should also be required to meet. The two uses of the word "or" in lines 34 and 35, page 3, give rise to this inconsistency.

7. **FISCAL IMPACT:** Only \$110 of a CCW application fee will be delivered to the KBI. Since the KBI is going to be required to issue a license in 90 days, regardless if the required background-checking has been completed, we should be certain that the KBI is going to be adequately funded to hire the personnel and purchase the equipment that will be needed to get the job done in an accurate and timely manner. In these difficult days of finding funds to adequately finance the operations of state government, it is very important to know whether \$110 is going to be adequate. Public safety is at stake.

8. **SHERIFF REPORTS OF DANGEROUS APPLICANTS:** New Section 5(c)(2) allows a sheriff to tell the KBI when forwarding a CCW license application that the applicant poses "a significantly greater threat to law enforcement or the public at large than the average citizen." While SSK agrees that sheriffs should be encouraged to make these reports, this bill does not tell the KBI what to do with such a report, if the applicant otherwise meets the eligibility requirements of the law. Someone like Tim McVeigh, for example, though recognised by a county sheriff to be dangerous, might still acquire a license because this bill does not give to the KBI the discretion to deny a permit in the interest of public safety.

9. **REPORTING OF CCW LICENSE HOLDERS:** SSK agrees that all law enforcement agencies nation-wide should be able to determine if Kansas has issued a CCW license. It is troublesome that no where in this bill is there found a policy statement confirming that this list will constitute a public record that can be discovered by a Kansas Open Records request. It is troublesome that New Section 6 is silent as to the list of licensees being available to non-law enforcement groups like employers and other government agencies who might wish to conduct pre-employment investigations. The list of CCW licensees should not be a state secret.

10. **REVOCAION OF LICENSE BY KBI:** This is a very important part of this bill, because there must be a system for revoking a permit that is issued by mistake, or where a CCW licensee is charged with, or convicted of, a crime. We know from the Texas experience that CCW licensees will indeed commit crimes despite passing background checks. New Section 7 is troublesome, however, because it is not well-worded, and because it specifies that license revocation or suspension can only take place after the CCW licensee is given notice and an opportunity for hearing to contest the action. What happens when a CCW licensee commits a crime, but goes into hiding or leaves the state? No license revocation would take place until the license holder is located so that service of legal process could be effected. Under this scenario, SSK believes that license suspension should be immediate, and revocation automatic after a short period of time if the license holder does not request a hearing.

11. **NO GUN ZONES:** It is important to realize how New Sections 10 and 11 are structured. New Section 10 describes a list of 15 places where it shall be illegal - and punishable by criminal prosecution - for a CCW licensee to carry. Subsection (b) makes such a violation a Class B misdemeanor - which is up to 6 months in jail. New Section 11(a) also permits employers to establish valid rules that prevent carrying concealed

weapons into the workplace, and New Section 11(b) permits businesses to prohibit CCW on their premises by posting a "No Guns Allowed" sign. This bill strangely does not impose criminal liability on a CCW licensee who ignores these rules or signs. The proponents of this bill obviously don't think it is important to give teeth to enforcing New Section 11.

New Section 10 curiously prohibits CCW inside the Capitol, but permits CCW inside banks, casinos, hospitals and churches. These omissions are difficult to understand.

K.S.A. 21-4201 defines under the Kansas Criminal Code what actions constitute "Criminal Use of Weapons". The lightest penalty under current law for carrying a concealed weapon is a Class A misdemeanor - which carries a maximum penalty of one year in jail. Yet this bill proposes to make it only a Class B misdemeanor to carry a licensed weapon, for example, into a jail, police station, a courtroom or an elementary school? What about repeat offenders? Shouldn't greater penalties follow repeated offenses?

12. CARRYING CONCEALED WEAPONS WHILE INTOXICATED: New Section 12 makes it a Class A misdemeanor for a licensee to carry a concealed weapon while under the influence of alcohol or drugs, or both. Obviously, this kind of behavior should be illegal. But what about a two-time offender? Shouldn't repeat offenders be subject to greater penalties? Under our DUI laws, a third conviction becomes a felony [K.S.A. 8-1567(f)]. And shouldn't a conviction automatically result in license forfeiture? CCW licensees who continue to carry their weapons while inebriated should be treated sternly. Automobiles driven by impaired drivers often become killing machines, and no less would happen with firearms. Moreover, law enforcement officers are going to be at increased risk during car stops if this bill passes, and even more so if the driver is a CCW licensee who is impaired. Someone convicted once of DUI would still be allowed under New Section 4 to acquire a CCW license, so it seems reasonable to permanently revoke a CCW license if the licensee even once violates New Section 12.

13. CRIMINAL ACTIVITY BY CCW LICENSEES: New Section 16 requires the KBI to publish annually a report regarding the number of licenses issued, revoked, suspended or denied. SSK submits that the same report should advise of the CCW licensees who have been arrested for any criminal offense. Arrests should be targeted for this reporting instead of convictions because sometimes several years can go by before a prosecution can be completed. If this bill passes, SSK predicts that there will be future attempts to change the terms under which licensure will be offered, and the legislature should then know what has been the Kansas experience with crime being committed or even aided with the use of a CCW license.

14. LOSS OF HOME RULE FOR CITIES AND COUNTIES: New Section 17 will preempt and override the ordinances of all Kansas cities and counties which currently prohibit CCW. The Kansas Constitution provides the foundation for cities and counties to exercise Home Rule, but the proponents of this bill believe that these governing

bodies should have no discretion to legislate as it relates to firearms inside their boundaries. Even during the bygone days of the Wild West, cities possessed the right to decide whether carrying concealed weapons inside their city limits should be tolerated. Many such cities banned those weapons. Why now should we deprive cities of the right to decide for themselves whether CCW should be legal?

15. **CONSTITUTIONALITY:** Buried in the text of this bill on page 10, proponents are trying to change the constitutional law of this state by providing that this "act is supplemental and additional to existing constitutional rights to bear arms and nothing in this act shall impair or diminish such rights." It has been the law of Kansas since 1975 that the Kansas Constitution does not guarantee a right of citizens to keep and bear arms. See *City of Junction City v. Lee*, 216 Kan. 495, 532 P.2d 1292. What is the point of New Section 17(c) if it is not a backdoor attempt to change the constitutional law of this state? If this law is passed, obviously there would be no impact on the debate of whether the 2nd Amendment to the U.S. Constitution guarantees such a right. State law would not have priority over federal law which has consistently recognized that the 2nd Amendment does not guarantee such a right. So the proponents must be trying to legislatively overrule *City of Junction City v. Lee*.



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

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785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

HB 2798

SANDY BARNETT

Federal and State Affairs Committee

February 18, 2004

Opponent

KCSDV is a private non-profit organization representing victims of domestic and sexual violence and the thirty advocacy programs in Kansas that serve victims of these crimes. The Department of Health and Human Services and the Centers for Disease Control have designated KCSDV as the recognized coalition in Kansas.

KCSDV has struggled a great deal in coming to our position to oppose HB 2798 because as you will hear from victims of sexual assault, as well as other crimes, that victims would sometimes feel safer if they were able to carry a concealed gun. Some may be safer, but there is no research that I was able to locate that indicated gun carriers were actually able to thwart an attack. There is evidence that women are at three times greater risk of being killed when guns are in the home than when guns are not as easily accessible.

Sexual assault and domestic violence are crimes most often perpetrated against women and children.

- It is estimated from general population prevalence studies that 1 in 3 females and 1 in 7 males will be sexually assaulted at some point in their lives
U.S. Department of Justice. (2000). Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey. No Author.
- General population prevalence studies indicate that one five US women has been physically assaulted by an intimate partner
U.S. Department of Justice. (2000). Prevalence, Incidence, and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey. No Author.
-
- 22,434 incidents of domestic violence were reported to Kansas law enforcement agencies in 2002. Of those, 239 involved a gun of some sort
Kansas Bureau of Investigation, (2002). A Report on Domestic Violence and Rape Statistics in Kansas.
- Domestic violence programs provided services to 21, 250 women, children and men during 2001
KCSDV, (2003). Domestic Violence and Sexual Assault Advocacy Services in Kansas.
- 1,157 rapes were reported to Kansas law enforcement agencies during 2002. Of those 550 were children.
Kansas Bureau of Investigation, (2002). A Report on Domestic Violence and Rape Statistics in Kansas.

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Attachment 2

- In 2001, sexual assault advocacy programs worked with 4,794 women, children, and men who were victims of sexual assault
KCSDV, (2003). Domestic Violence and Sexual Assault Advocacy Services in Kansas.
- There were 22 domestic violence murders and 17 attempted domestic violence murders in Kansas during 2002.
Kansas Bureau of Investigation, (2002). A Report on Domestic Violence and Rape Statistics in Kansas.

Would women in Kansas be safer from sexual assault if they were able to carry a concealed weapon?

Perpetrators of sexual assault typically rely on coercion when the victim is known to them and the element of surprise when the victim is a stranger. Strangers perpetrated only 11.2% of all rapes reported in Kansas. In either case, a concealed weapon would be unlikely to prevent the assault. A perpetrator who is using an element of surprise is probably already in physical contact with a victim by the time a perpetrator has made apparent his intentions of attack; leaving a victim unable to retrieve the concealed gun. KCSDV has serious concerns about concealed guns that perpetrators take away from victims. FBI studies find that 15% of officers killed in the line of duty by handguns are killed by their own service weapons. This suggests to me that even seasoned and trained officers are at risk of losing their weapons to perpetrators.

The majority of sexual assaults occur in the home and are perpetrated by someone known to the victim. In fact, of the rapes reported to law enforcement in 2002, 75% were committed in a home. Although all these may not be perpetrated in the home of the victim, it is easily anticipated that most are. While sexual assault perpetrated by someone known to the victim such as a relative, spouse, ex spouse, or boyfriend is indeed traumatic, sometimes with life long emotional scars, it is not usually physically assaultive. These perpetrators use coercion or threats to gain a certain amount of trust and compliance. Many of these victims are children and would not have legal access to a gun of any nature. The remainder is unlikely to use a weapon against their assailant.

Would victims of domestic violence be safer if they were able to carry a concealed gun?

Domestic violence is a volatile crime, which resulted in more than 39 murders or attempted murders during 2002. Although many weapons other than guns were used during the commission of domestic violence crimes, none are as instantly lethal as guns. If it becomes legal in Kansas to carry a concealed gun, it is unknown how many people will carry a gun who currently do not own a gun. But, it appears generally accepted that the number of guns in homes will increase. The more accessible guns are during domestic violence incidents, the more serious injuries or deaths will occur of both perpetrators and victims. According to the Violence Policy Center, the most

conservative estimates suggest that women are three times more likely to be killed if there is a gun in the home. One study shows that domestic violence assaults involving a gun were twelve times more likely to result in death than assaults no involving a gun.

This section does not even begin to address the issues for victims of domestic violence relative to the additional threats and tools of control a batterer will have when able to legally carry a concealed weapon almost anywhere he goes with his victims.

Additionally, it makes intuitive sense that the number of accidental injuries and deaths will increase as more guns are available in homes.

Will victims be held criminally liable for shooting injuries or deaths of perpetrators?

The answer to this question is largely unknown. My experience in working with women who have killed their batterers is that the law around self-defense and using excessive force is complex and women who kill their batterers are indeed serving time in Kansas prisons. We must seriously consider that of the rapes reported by law enforcement in Kansas during 2002, only 5 reported a gun was used. If the experience of women who are battered is any indicator, women who carry guns to thwart an attack were to injure or kill a perpetrator who is unarmed, they will most likely be held criminally liable.

On balance, it does not appear that women in Kansas will be safer from sexual assault or domestic violence if they carry a concealed gun.

Requested amendments to HB 2798

KCSDV has worked with Representative Ruff so you may already have these amendments.

Essentially, KCSDV is interested in protecting victims of domestic and sexual violence. Should HB 2798 be enacted, the following changes are critical to the protection of these victims:

Section 4(a) (5) (H) allows for a permit rejection if convicted or placed on diversion, in this or any other jurisdiction, for an act that constitutes a domestic violence misdemeanor under article 34 or 35 of chapter 21 of the K.S.A. (or adjudicated as a juvenile of domestic violence misdemeanor)

K.S.A. 22-2307 requires law enforcement agencies to have policies that, among other things, articulate the definition of domestic violence and direct officers to arrest when they have probable cause that any crime was committed. This statute codifies the concept that domestic violence can include many acts and it is the context in which that crime occurred that makes it a domestic violence crime. In 2002, law enforcement agencies reported a total of 39 different crimes that were committed in the context of domestic violence (attached).

We need to ensure that the full range of crimes perpetrated by batterers is included in the list that disqualifies a license seeker. Of particular interest are the misdemeanor convictions that are disqualifiers if they are committed in the context of domestic violence.

Article 34: Assault (3408), Battery (3412), Domestic battery (3412a), Parental custody interference under certain circumstances (3422), Criminal restraint (3424), Injury to PG woman under certain circumstances (3440), Injury to PG woman with vehicle under certain circumstances (3441); Article 35 Lewd & Lascivious (3508), Sexual battery (3517).

As a practical matter, KCSDV believes the information necessary to ascertain the context of the crime and/or the relationship of the victim to the offender is **NOT** available for the KBI when performing background checks. Without this information we will not be able to disqualify perpetrators of domestic violence.

Additionally, we will lose those who have negotiated pre-file diversions. We also question if the current data available will even track diversions that have been successfully completed, i.e., no conviction resulted?

Also, this section needs to include the following regarding protection orders:

1) **violation of protection order convictions/diversion (21-3843)]**

2) is not subject to a restraining order issued under the protection from abuse act, under the protection from stalking act or pursuant to K.S.A. 60-1607, 38-1542, 38-1543 or 38-1563, and amendments thereto, and pursuant to the laws of another jurisdiction which are entitled to full faith and credit in Kansas pursuant to the provisions of 18 U.S.C. 2265, and amendments thereto." Section 4 (a) (11)

Our recommendation to permanently disqualify anyone convicted of violating a protection order is that the violation appears to be an indicator of a perpetrator with blatant disrespect for the courts and the laws of Kansas. This is not the type of person who should have access to concealed weapons.

3) has never been convicted or placed on diversion, in this or any other jurisdiction, for an act constituting violation of a protection order whether that order is issued pursuant to Kansas law or issued pursuant to the laws in another jurisdiction governing protection orders." Section 4 (a) (13)]

Again, thank you for the opportunity to raise these issues with the Committee.



League of Kansas Municipalities

To: House Federal and State Affairs Committee
From: Kim Gulley, Director of Policy Development & Communications
Date: February 18, 2004
Re: Opposition to HB 2798

Thank you for the opportunity to appear before you today on behalf of the League of Kansas Municipalities and our 556 member cities. At the outset, it is important to note that the League does not have a position on whether the state should regulate firearms or whether the state should authorize and license the concealed carry of weapons. The League and our member cities, however, do take a strong position in favor of Constitutional Home Rule and local control. The 2004 *Statement of Municipal Policy* reads as follows: "We oppose any legislation which preempts local regulation of firearms."

Kansas has a strong history of local firearms regulation, including the local regulation of concealed weapons. Both the State of Kansas and its cities have regulated the concealed carry of weapons since the 1860s. I have attached to this testimony an ordinance adopted by the City of Lawrence in 1863 which prohibited discharge of firearms in the city limits (section 9) and the concealed carry of weapons (section 10). The City of Lawrence is not unique in this regard; many cities in Kansas have been regulating firearms by local ordinance for at least the last 141 years.

The Kansas Supreme Court has long recognized the power of cities to regulate firearms. As early as 1887, the Court recognized the right of cities to regulate the discharge of firearms pursuant to their general police powers. See, *City of Cottonwood Falls v. Smith*, 36 Kan. 401 (1887). In 1975, the Court dealt more directly with the issue of concealed carry in the *City of Junction City v. Lee*, 216 Kan. 495 (1975). In this case, the Kansas Supreme Court opined that neither the federal Constitution nor the state constitution grants a right to individuals to carry a weapon concealed on their person. In addition, the Court stated that "[w]eapons control is an area of cities' concern" and upheld a local ordinance which was more restrictive than state law. The Court in *Junction City v. Lee* recognized that one-size-does-not-fit-all in this case and upheld the Kansas tradition of local control regarding firearms by noting, "The governing bodies of some cities may conclude they are sufficiently protected by the state statutes on weapons control, but that is their business." *Junction City v. Lee*, 216 Kan. 495, 501-502 (1975).

It is in this historical context of local control that the League offers the following key objections to HB 2798 in its current form:

- **Preemption of Local Ordinances.** On Page 10, New Section 17 of the bill, all current and future city ordinances regarding the concealed carry of weapons are declared to be invalid. This type of complete preemption flies in the face of Kansas history regarding local control of firearms regulation. The League strongly objects to this preemption and respectfully requests that should the legislature go forward with this legislation, the preemption of local ordinances be removed.
- **Municipal Buildings and Property.** Page 7, New Section 10 of the bill lists a number of locations where carrying concealed weapons would not be allowed if this bill goes into effect. Subsection (13) protects “any place where the carrying of firearms is prohibited by federal or state law.” K.S.A. 21-4218 grants the State the ability to prohibit concealed weapons in “any state-owned or leased building,” including but not limited to the State Capitol, the Governor’s residence, and all state office buildings. In addition, county courthouses are specifically protected in subsection (4) of the proposed bill.

City halls, however, are not enumerated as one of the protected locations. We are also concerned about a number of city-owned properties including public works facilities and public parks. Because of these concerns, we offer an amendment for your consideration which would simply grant cities the same authority to protect municipal buildings and property that the State has already granted to itself. We respectfully request that the following language be added to New Section 10 of the bill:

“any city owned or leased property or facility including, but not limited to, city hall, public parks, recreational facilities, and public works buildings.”

In conclusion, the League of Kansas Municipalities must oppose HB 2798 in its current form. Should you decide to go forward with this legislation, we ask that the Kansas Legislature respect the tradition of local control and Constitutional Home Rule in this state and remove the preemption language from HB 2798. In addition, we request that sensitive areas where city officials work, and our children play, be protected by the amendment that we are offering regarding municipal buildings and property.

Again, thank you for the opportunity to offer our comments and concerns regarding this very important piece of legislation. I would be happy to stand for questions at the appropriate time.

41-152
CHARTER,

OTHER POWERS,

ORDINANCES

CITY OF LAWRENCE,

COMPILED BY ORDER OF THE CITY COUNCIL.

RAMUEL KIMBALL, COUNCILMAN, }
E. V. BANKS, CITY ATTORNEY, } COMPILING COMMITTEE

LAWRENCE:
LATHAM STATE JOURNAL STEAM POWER PRESS PRINT.
1886.

NUISANCES.

147

[No. 34.]

An Ordinance Relating to Nuisances.

- | | |
|-----------------------------|---------------------------------|
| 1. Deposit of dead animals. | 6. Removal of nuisances. |
| 2. Refusal to remove. | 7. Notice to abate. |
| 3. Privies. | 8. Bething in the Kaw. |
| 4. Slaughter houses. | 9. Discharging firearms. |
| 5. Filth. | 10. Carrying concealed weapons. |

Be it ordained by the Mayor and Councilmen of the City of Lawrence:

SECTION 1. Any person who shall deposit, or cause to be deposited, any dead animal upon any ground within the limits of this city, shall be subject to a penalty of not less than five nor more than twenty-five dollars.

SEC. 2. Any person, the owner of any dead animal which shall be found lying upon any ground within the limits of this city, who shall neglect or refuse to remove the same within one day after notice to remove the same shall have been given by the marshal, shall be subject to a penalty of not less than five nor more than twenty-five dollars.

SEC. 3. The owner of any privy in this city, or the owner of any lot in this city, upon which any privy is or may be erected, which is or may become offensive to persons residing in the neighborhood, shall remove or cleanse, or cause the same to be removed or cleansed within five days after notice shall be served upon him by the city marshal to remove or cleanse the same; and any person who shall neglect or refuse to remove or cleanse any privy as aforesaid, shall be subject to a penalty of not less than five nor more than fifteen dollars.

SEC. 4. Any slaughter house which now is, or may hereafter be erected within the limits of this city, which is or shall become offensive to the inhabitants of the neighborhood, shall be removed out of the bounds of this city within ten days after notice shall be given to remove the same by the city marshal. Any person or persons, the owner or owners of any slaughter house, as above mentioned, who shall neglect or

SEC. 9. Whoever shall, within the city, discharge any fire-arms, except by permission of the mayor, or when mustered for drill or review, or otherwise acting under the command or by permission of some commissioned officer, or except when done in self-defense, or for the protection of gardens from destructive animals, shall be, upon conviction thereof, fined not less than five dollars.

SEC. 10. Any person who shall in this city have or carry concealed or partially concealed, upon his person, any pistol, bowie knife or other deadly weapon, shall, on conviction, be fined not less than one nor more than ten dollars: *Provided*, This section shall not apply to peace officers of the city or state. The carrying of a weapon in a holster, exposed to full view, shall not be deemed a concealed or partially concealed weapon under this section.

S. K. HUSON, Mayor.

Approved, January 12, 1863.

[No. 35.]

An Ordinance Amending "An Ordinance Relating to Nuisances."

Be it ordained by the Mayor and Councilmen of the City of Lawrence:

SECTION 1. That section seven of "An Ordinance relating to nuisances," approved, January 12, 1863, be and the same is hereby amended so as to read as follows: Section 7. The city marshal shall have authority and it shall be his duty to notify any and all persons whose duty it shall be so to do; to remove any nuisance or nuisances mentioned in said ordinance.

SEC. 2. That this ordinance shall be in force from its publication.

Approved, December 7, 1866.

Attest: W. H. B. LYKENS, Mayor.

H. O. SHOLES, City Clerk.

refuse to remove the same within the time above specified, shall be subject to a penalty of not less than ten nor more than twenty-five dollars.

SEC. 5. Any person who shall deposit any excrement, or filth, or refuse, or any vegetable or animal matter, or any substance whatsoever, which is or may become offensive in any street or place within the limits of this city, shall be liable to a penalty of not less than two or more than ten dollars; and all persons who shall or may have deposited any excrement or filth, or refuse, or any vegetable or animal matter, as aforesaid, are required to remove the same within one day after receiving notice to remove the same, from the city marshal, under a penalty of not less than two nor more than five dollars.

SEC. 6. It shall be the duty of the city marshal, in all cases of nuisance committed under the provisions of this ordinance, where the offending party is not known, or cannot be found, to remove and abate, or cause to be removed or abated, all nuisances so committed within a reasonable time, at the expense of the city; and in all cases where such offending party is known or can be found, but who neglected or refuses to obey the provisions of this ordinance, the city marshal shall remove and abate, or cause to be removed and abated, such nuisances, at the cost and expense of the party so neglecting or refusing to abate or remove the same.

SEC. 7. The city marshal shall have authority to notify persons to abate and remove nuisances as described in sections two, three, four and five of this ordinance, only upon written complaint made of the existence and continuance of such nuisance, by two residents of the city.

SEC. 8. It shall be unlawful for any person between the hours of five o'clock, A. M., (forenoon) and sun set, to bathe in a state of nudity in the Kaw river within the limits of this city. Any person offending against the provisions of this section shall be fined not less than one dollar.



8500 Santa Fe Drive
Overland Park, Kansas 66212
• Fax:
www.opkansas.org

LT. COL R. KEITH Faddis

Mr. Bill Mason
House Committee on Federal
And State Affairs

Thank you for allowing me to appear before your committee. I am appearing on behalf of the City of Overland Park in opposition to House Bill 2798. For many years, the debate about carrying concealed weapons has been ongoing. The Overland Park Police Department prominently displays the words "to protect and serve" throughout the department. This phrase applies to the citizens, but it also applies to the officers under my command. A tremendous amount of the debate has centered on how allowing concealed carry affects the crime rate. I would like to provide you with some information for your consideration on other areas of concern:

- Safety
- Training
- Costs
- Practicality

Safety

Every year the FBI compiles statistics related to all crime, and they also prepare reports on specific crimes. The *Law Enforcement Officers Killed and Assaulted* report is of particular interest to those of us in law enforcement. The last published report in 2002 has some significant statistics I would like to point out. In 2002,

- 56 officers were killed in the United States
- 51 were killed with firearms (rifles, shotguns)
- Of those 51, 38 were killed with handguns

A review of the years 1993 to 2002 revealed significant facts:

- 636 officers were killed, not including the 72 who died at the World Trade Center
- 591 were killed with firearms.
- 443 were killed with handguns
- 136 were killed with their own weapons

The FBI also compiled statistics on the individuals who were arrested for killing those officers. During the same time period, 1993 to 2002:

- 785 known assailants were arrested
- 528 (67%) of those arrested had a prior criminal arrest
- 373 (47%) of those arrested had a prior criminal conviction

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Using the standard of conviction for the basis of denying a license, 412 (52%) individuals who were arrested for killing a police officer would have been able to obtain a concealed carry license in this state if this legislation were passed.

The proposed legislation places limited restrictions on carrying a weapon in an establishment that serves alcohol. The restriction states that one cannot carry in the portion of the establishment that predominantly serves alcohol. If I read that correctly, one would be prohibited from carrying a concealed weapon in the bar area but could be armed in the dining section of the restaurant. Most restaurants that are licensed as a drinking establishment allow you to order and consume alcoholic beverages at the table that is not in the bar area. The policies of the Overland Park Police Department prohibit officers from consuming intoxicating beverages while carrying a firearm.

Costs

There would be costs associated with this legislation that would not be covered by the fees. It is anticipated that courts and other municipal facilities would find it necessary to install metal detection equipment. Walk through metal detectors can cost \$5,500 each and handheld units \$230 each. The greatest cost would be in personnel to staff those locations that utilize metal detectors. Two officers, at a cost of \$36,000 each, would be needed at each location where a metal detector is installed.

The legislation calls for the concealed carry license to be associated with the Kansas driver's license or Kansas ID card system. What type of costs would be incurred by the KBI to maintain this portion of the system? It would be extremely important that it be current and accurate. Every law enforcement officer in the state who has ever checked a vehicle license through KDOR is familiar with the response "not on file" or "work in progress, possible errors." There would be a need to constantly check to make sure those who have a concealed carry license have not been convicted of a crime that would require revocation of the license.

Training

Every officer who is hired by the Overland Park Police Department starts their career by receiving training both at the Department and the Johnson County Regional Academy that totals 560 hours. That training includes 40 hours of pre-academy firearms, 40 hours of academy and 40 hours of post academy advanced firearms training. This includes 16 hours in the classroom, 16 hours on the Firearms Training Simulator (FATS), and the remainder of the time is spent on the range. The amount of time spent on the FATS machine is extremely important as this gives the officers the skills necessary to know not just how to shoot but when to shoot and when not to shoot. In addition to the pre-academy training, each officer receives annual training on marksmanship and the FATS machine. Every officer must also qualify with any weapon that is carried in an off-duty capacity. The 40 hours of defensive tactics includes training on weapon retention. *Even with this training, 136 officers nationwide were killed when their own gun was used against them.*

I would not expect the average citizen to obtain the same training received by a certified law enforcement officer. But when an officer who has been trained in the use of a firearm,

defensive tactics, and knowingly goes into dangerous situations can be disarmed and killed, what level of training should be expected for the average citizen? To be able to identify a threat, determine a course of action, and take action requires a tremendous amount of training. In addition to the training it is necessary to have the mindset that you may need to defend yourself without warning.

Practical application

The legislation provides a list of locations, meetings, and institutions where carrying a concealed weapon would be prohibited. It also allows business owners and businesses to prohibit the carrying of concealed weapons on the premises. A bank in Overland Park already has posted signs at the entrance stating that firearms are prohibited. It is likely that a large number of businesses would post such signs. If that were the case, a person who was licensed to carry concealed could leave their residence, drive to the store, and find that weapons were prohibited. They would then have three options. Do not go into the store at all, go into the store anyway in violation of the prohibition, or leave their weapon in their vehicle. Last year in Overland Park there were 768 auto burglaries, over 250 occurred in commercial parking lots.

The legislation also allows for reciprocal agreements with other states that allow concealed carry. How would a Kansas law enforcement officer be able to verify the validity of the out-of-state license? An out-of-state individual could be carrying a concealed weapon with a license that appears to be valid, but how would the officer on the street know? Is there a national electronic database? Would the officer assume the out-of-state license is valid or would the officer charge the individual, take them into custody, make them post bond, or let them go until they find out if the license is valid? It is not uncommon for a person whose driver's license has been suspended to still be in possession of the actual license. The law in Florida states that the status of a concealed carry license must be available through the Florida Crime Information Center. To the best of my knowledge, Kansas law enforcement officers do not have access that database.

The bill states that a person who is licensed to carry a concealed weapon must carry the license with them and produce it upon demand by a law enforcement officer. That means the officer must be within close proximity to the person. Of the 51 law enforcement officers killed in 2002, 25 were within 5 feet of the assailant.

If you believe that HB 2798 would make Kansas safer for its citizens, I would ask that you consider those who have sworn "to serve and protect" all of the citizens of the State. This bill would not automatically make Kansas safer. It will make the duties of a law enforcement officer more difficult and more dangerous.

The City of Overland Park requests that you not support HB 2798 favorably for passage.

Thank you for your consideration.

*Lt. Colonel R. Keith Faddis
Overland Park Police Department*



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

✓ Mike Taylor, Public Relations Director 913.573.5565
Don Denney, Media Relations Specialist 913.573.5544

House Bill 2798 Family Protection Act

Delivered February 18, 2004
House Federal and State Affairs Committee

The Unified Government of Wyandotte County/Kansas City, Kansas opposes House Bill 2798.

The 2004 Legislative Program for our community states: *"The Unified Government opposes legislation allowing the carrying of concealed weapons and opposes any legislative effort to restrict or pre-empt local home rule authority to regulate firearms."*

The 2004 Legislative Program was unanimously adopted by the Board of Commissioners after a series of public meetings and workshops. The opposition to concealed carry legislation represents a consensus of the Commission and a consensus of the citizens in Wyandotte County.

House Bill 2798 is problematic for several reasons. First, New Section 17 of the bill specifically provides that "any city ordinance or county resolution that regulates, restricts or prohibits the carrying of concealed weapons shall not be applicable to any person licensed in accordance with the provisions of this act." Cities in Kansas have been regulating firearms since statehood. Pre-emption on this important public safety issue is unacceptable. Wyandotte County has experienced a 50% decrease in violent crime since 1995. This is a result of dedicated, focused law enforcement and committed neighborhood and citizen groups. Stripping local elected officials of their ability to regulate firearms is not a positive step toward helping our community control crime.

Secondly, House Bill 2798 lists a number of locations where individuals would not be allowed to carry concealed weapons. It includes police stations, courthouses, and a number of other locations. City Hall is not listed. Neither are other municipal facilities such as parks, auditoriums, or libraries.

Finally, House Bill 2798 is troubling because it once again overrides the wishes of the local community and the decisions of locally elected officials in favor of a legislative mandate. This is unacceptable on any issue, but when it comes to allowing more guns on the streets of our community, it is reprehensible.

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Attachment 5



The Historic Lackman-Thompson Estate

11180 Lackman Road
Lenexa, KS 66219-1236
913.888.1414
Fax 913.888.3770

TO: Representative Bill Mason, Chair
Representative Dan Williams, Vice Chair
Members, House Federal & State Affairs Committee

FROM: Ashley Sherard, Vice President
Lenexa Chamber of Commerce

DATE: February 18, 2004

RE: **HB 2798—Licensure for Concealed Carry of Weapons**

The Lenexa Chamber of Commerce would like to express its opposition to the concepts embodied in House Bill (HB) 2798, which provides for licensure to carry certain concealed weapons.

Supporters of concealed carry legislation primarily contend adopting such laws acts as a deterrent that substantially curbs violent crime. Researchers, however, continue to be stubbornly divided on the effects of concealed carry laws on crime rates.

There is also contradictory evidence about the effectiveness of screening procedures. Proponents contend that screening procedures would ensure permit holders are law-abiding citizens. An investigation by the *L.A. Times* in 2000, however, revealed that in Texas (where concealed carry was enacted in the mid-1990s) concealed carry licenses were given to over 400 individuals who had prior convictions, including rape, robbery, and other serious crimes, or had psychological, drug or alcohol problems. In addition, more than 3,000 Texas licensees have been arrested since the law took effect, including arrests for offenses involving murder, violence or drugs.

Many residents in Johnson County have expressed concern that authorizing concealed carry legislation would make their families feel less safe in the community and that such a measure is unwarranted in Kansas. Polls taken in the 1990s also showed a majority of Kansans statewide did not favor concealed weapons at that time.

Further, businesses are also concerned about the potential safety and liability issues arising from employees or customers carrying a concealed weapon, and in many cases it would be expensive or impractical for businesses to enforce policies prohibiting concealed weapons on businesses premises. (Indeed, the most controversial fallout from a concealed carry law that went into effect in Minnesota in May 2003 has been issues surrounding the posting of signs banning weapons.)

Due to its potential impact on liability issues and on quality of life, the Lenexa Chamber of Commerce urges the committee *not* to recommend HB 2798 favorable for passage. Thank you for your time and attention to this issue.

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Attachment 6



February 17, 2004

Larry R. Hund, M.D., F.A.A.P.

Steve Chavez, M.D., F.A.A.P.

Cindy Durr, D.O., F.A.A.P.

✓ Debra A. Kinnane, M.D., F.A.A.P.

Christina Mannix, M.D., F.A.A.P.

Frank Banfield, M.D., F.A.A.P.

Mario Borlongan, Jr., M.D., F.A.A.P.

Wendy Dusenbury, A.R.N.P., M.S.N.

Leslie Hedges, PA-C

Jenny Ecord, A.R.N.P., M.S.N.

Vicki L. Ackerman, M.B.A.

Administrator

To the Kansas Legislative Body,

I am writing on behalf of the Greater Wichita Pediatric Society as the current President to express our opposition to the concealed-carry act. As pediatricians and advocates for children we support measures to protect them from accidental and nonaccidental gun injuries. We ask that you vote against measures that could expose our children to more gun violence.

Carrying concealed weapons will not make us safer. Despite the proposal to only allow law-abiding citizens the access to this license, past experience has shown regulation of this to be difficult, flawed, and virtually impossible to assure. Even concealed weapons can and will fall into the wrong hands, and increase the gun violence, which is already a problem in our country. A false sense of security is not security. Please continue to show the good judgment you have in the past and vote against the concealed-carry act.

Sincerely,

Debra Kinnane, M.D., F.A.A.P.

President of the Greater Wichita Pediatrics Society

9825 Shannon Woods

Wichita, Kansas 67226

(316) 634-2000

Fax (316) 634-2321

6837 W. 37th Street North, Bldg. 1

Wichita, Kansas 67205

(316) 773-3100

Fax (316) 773-3777

HS Federal & State Affairs

February 18, 2004

Attachment 7

The Wichita Coalition Against Gun Violence

Matt Greene, Executive Director

Member, Safe State

February 17, 2004

Good day to the distinguished Chair and members of the committee.

My name is Matt Greene.

In 1992, I and 6 other Black business owners, shocked and dismayed at the number of young Black men dying in the streets of Wichita, formed African Americans against Gun Violence. We worked inside the Black community trying to find a solution to the problem of guns, drugs and gangs.

What our research proved was the correlation between the three elements. We campaigned in the streets, in Churches, anywhere someone would listen. We talked to City officials about a safe, sane gun control ordinance to curb the proliferating sale of firearms in Wichita.

Mayor Elam Broadfoot listened and in 1993, formed a Mayor's Task Force to study the feasibility of a workable gun control ordinance. Meanwhile, Wichita set another record for murders in 1993. In addition, in 1993, Africans Americans Against Gun Violence grew into a citywide coalition and was renamed *The Wichita Coalition Against Gun Violence*.

The Task Force set about formulating a gun control ordinance and presented it for a vote to the City Council. The ordinance passed and March 1, 2004 will see the ordinance celebrate its tenth anniversary. Year after year, the Wichita Gun Control act of 1994 has spread a mantle of good common sense firearms law that works in the background making Wichita, a safer, healthier place to live and raise children.

At least since 1991, there have been efforts to bring a Carry Conceal law to Kansas and Wichita. Those efforts up to now have not succeeded.

In the report I submitted to you, you will find some of the exhibits that were part of the summary report I wrote to the Wichita Council Against Gun Violence.

In those exhibits, you will note that 51 of every 100 persons who die from firearms trauma are suicides. Nothing has changed. Suicide is still the largest cause of death by firearm.

**As in 1994, 6 of every 10 Law Enforcement Officers who die from firearms trauma are suicides.*

Noting Exhibit "B," you will see that 41 of every 100 deaths by firearms in America are people killed *by someone they know*. That if a woman is murdered with a firearm, dies from firearms trauma, her killer is 9 out of 10 times her mate/significant other.

The number of children killed by firearms has declined slightly *but not the number of children who commit suicide with a firearm*.

**The most shocking statistic in the suicide phenomenon is that 8 of every 100 suicides kill someone else first, usually a spouse, but often, suicides kill other family members, friends and all too often, innocent co-workers.*

The only conclusion that can logically be drawn then, is that guns in the possession of "Law abiding" private citizens kill nearly 92 of every 100 persons (*51 suicides, nearly 41 murders*) who die by firearms trauma in America.

Nearly 3 of every 100 die from gun accidents, almost 2 die from legal intervention, nearly 3 are killed in criminal action.

Thus, the real story paints a far different picture of "gun violence" that what the NRA and the Gun Lobby always leads us to believe.

A Carry-Conceal law would just as surely put more handguns in the hands of more "law abiding" citizens. There is nothing inferred or implied in this proposed Carry Conceal Law other than what the other side wants. No margin of public safety is written into the proposed law that would stop the wanton, despicable killing of spouses, or the suicides of children and Law Enforcement Officers.

If a woman is to die by firearms trauma, after she has turned on the house burglar alarm, switched on her perimeter lights, turned out the Rottweillers, she will have certainly protected herself from strangers. However, just as certainly, she will have, at the same time, crawled into bed with the very person most likely to kill her with a firearm.

In states where Carry-Conceal is law, Carry-Conceal licensees, instead of being exemplars, continue to mimic and reflect the general population in terms of the number of murders, suicides, murder-suicides they commit and the number of felonious assaults and other crimes committed with firearms owned by ordinary citizens.

That is: there is no difference between the “law abiding citizen” and the so-called “criminal element” since once the law abiding citizen murders, they become their own worst nightmare: “criminals”; killers with a gun.

Repeating the oppositions favorite mantra might seem foolhardy but here goes: “Guns *don't* kill people, people kill people” ...*And our exhibits prove precisely that.*

As surely as your honors allow thousands of more lethal handguns onto the streets of our cities with a Carry Conceal law, just as surely: More people will die from firearms trauma, usually killed by someone they know, (“Acquaintance murder,”) and many will continue to die by their own hands. Sadly more guns in the home means nearly 1,000 children will commit suicide with a firearm found in the home, and spouses will die brutal deaths because their significant others wanted them dead.

Finally, I would note your honors, that the evidence is in from other states with Carry Conceal laws: such laws add to the overall cost of law enforcement, just as the firearms trauma caused by thousands more firearms will add tremendously to the State’s debt load caring for indigent gun-shot patients, to the vulgar economic tune of 86 cents on the dollar.

Taxpayers monies your honors, those like me whom you have sworn to represent fairly will have to pay an unfair tax if you by legislative fiat increase the number of firearms in the homes or in the hands of Kansas citizens.

86 cents on the dollar your honors, taxpayer’s 86 cents.

EXHIBIT "A"

THE COST OF FIREARMS TRAUMA TO THE NATIONAL HEALTH SYSTEM

* The Centers For Disease Control (CDC) estimate the lifetime costs-of firearms violence including hospitalization, rehabilitation and lost wages was \$14.4 Billion in 1985 (more than \$20 Billion in 1992), making it the third most expensive injury category after Automobiles and workplace injuries.

Each firearms trauma involving emergency room treatment costs \$13,600

Each firearms injury involving hospitalization costs at least \$33,159, whether the victim lives or dies.

(Add \$18,000 if the patient is an infant in pediatric intensive care.)

- The average lifetime cost to the American taxpayer for each debilitating firearms injury-\$373,520, is the highest of any injury category.

- Of the 56,000 or more persons who suffer non-lethal firearms injuries each year, more than 33,000 are the poor or uninsured and their treatment and/or recovery will be paid for by American taxpayers²).

2) The hospital rates for all patients (131) admitted to San Francisco general hospital because of firearms injuries were studied to determine the hospital costs and sources of payments for these injuries. Because San Francisco General Hospital is the regional trauma center, the sample is population based, representing all firearms victims hospitalized in San Francisco during 1984. Only hospital costs (excluding professional fees) for the first (not subsequent) hospitalization(s) were studied. The total hospital costs for the year were \$905,809, an average cost (minus Professional fees) per patient of \$6915. Public sources paid 85.6% of this cost (\$775,715) while private sources paid only 14.4% (\$130,090). These findings have important implications for legislators considering bills to restrict the availability of firearms. These legislators must be aware that the issue is not simply one of individual Rights, since taxpayers pay most of the costs (estimated to be more than \$1 billion per year for the United States) associated with firearms injuries. Source: The Journal of the American Medical Association Nov. 25, 1988-Vol 260-No. 20

EXHIBIT "B" DOMESTIC GUN VIOLENCE STATISTICS

It should be noted here there were more than 26,000 homicides and 31,000 suicides in 1990. Almost without exception, the non-firearms murders (just as the majority of firearms deaths) were caused as a result of domestic violence.

- * 37,198 persons lost their lives to firearms in 1990, 34,462 (92%) of them killed in domestic violence or self murder (suicides)
- * Fewer than 1% of the victims were criminal assailants killed by civilians in self defense.
- * Fewer than 1% were killed by law enforcement officers.
- * Fewer than 4% were firearms accident victims
- * Fewer than 4% died at the hands of "real" criminals.
- * 41%, or 15,377 of the 37,198 deaths were "criminal" (domestic violence) homicides, 12,489 by handgun
- * 51%, or 18,885 of the 37,198 deaths were "criminal" suicides, 13,030 by handgun.
- * Most (92 of every 100) persons killed by firearms were not strangers to their

murderers or killed themselves.

* Of the 41 of 100 firearms homicide victims in 1990, the common thread in each? The murderers in most of the 41 homicides were not violent street "criminals" but the spouses, children-cousins-in laws, friends-next door neighbors or co-workers of the victims.

EXHIBIT "C"

1990 NATIONAL SUICIDE [CRIMINAL HOMICIDE] FIREARMS STATISTICS

* 51 of every 100 persons who die from firearms trauma in any given year kill themselves (suicide).

* Suicide among adolescents age 15-24 tripled since 1970, making suicide the third leading killer of adolescents.

* Guns are the method used in 60% of teen suicides.

Many persons who commit [criminal self-murder] by suicide are also accountable for a number of the persons criminally murdered; that is: some suicides criminally murder their spouses, friends or co-workers-then commit suicide.

The gun lobby fails to mention suicide as a part of the nation's escalating domestic firearms violence. Of the 18,885 firearms suicides in 1990, nearly 1,500 were children under the age of 18. Almost without exception, most of the minors were white! Even here published facts ignored by the gun lobby can be enlightening: More whites [children] killed themselves in 1990 than the total number of whites killed by Blacks or "criminals" in the same year. The gun lobby fails to inform Americans that persons who commit suicide (51% of all firearms deaths) are counted twice in federal crime statistics: first as "victims" of criminal violence then as "criminal murderers"!

EXHIBIT "D"

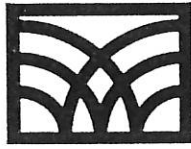
1990 CHILD DEATHS DUE TO FIREARMS TRAUMA

4,871 children under the age of twenty died due to firearms trauma in 1990. Of those ages 1 thru 19, 431 deaths were unintentional, 1,476 were suicides and 2,874 were murdered.

source: Centers For Disease Control, National Center For Health Statistics, data from the vital statistics system. Rates based on population for July 1,1990

1st Place (Team) First Rank: Bullet Stop Co-ed League
Center-fire Revolvers





OVERLAND PARK
CHAMBER OF COMMERCE

TO: Representative William Mason, Chair
Members, Federal and State Affairs Committee

FROM: Wes Ashton, Director of Government Relations
Overland Park Chamber of Commerce

DATE: February 18, 2004

RE: **HB 2798- Personal and Family Protection Act.**

The Overland Park Chamber of Commerce would like to express its opposition to the concepts embodied in HB 2798, which would allow the citizens of Kansas to carry concealed weapons. The Chamber believes that this is crucial legislation that could have a severe impact on the citizens and businesses of Kansas. The Overland Park Chamber of Commerce has listed this as a standing priority for the 2004 Legislative session, and encourages this committee to avoid passage of HB 2798 for the benefit of all Kansans.

HB 2798 mentions in section 11 that business owners may place a sign in their business forbidding the carrying of concealed weapons. However, as currently written, there does not appear to be any means of enforcement. The Chamber encourages this section to be amended to avoid greater harm before this bill advances farther. An amendment is needed to protect businesses by adding in some enforcement mechanism. Even with this amendment, the Chamber would still oppose HB 2798.

Concealed carry is an issue that has been debated in the legislature for many years, and will likely continue. This bill may bring significant harm to the people and businesses of Kansas, by increasing the likelihood of violence and crime. The logic of more guns equating to less crime does not seem to fit the rationale for a safe society. The Chamber recognizes the need for personal protection, but there are many other means available than to have every citizen carrying a gun in their purse or pocket.

For all the foregoing reasons, the Overland Park Chamber of Commerce strongly opposes HB 2798 for passage. Thank you for your time and attention to this issue.

For any further information, please contact the Chamber at 913-491-3600 or washton@opks.org.



**THE LEAGUE OF WOMEN
VOTERS OF KANSAS**

To: Rep. Bill Mason, Rep. Dan Williams, Rep. Rick Rehorn and members of the House Federal and State Affairs Committee

From: The League of Women Voters of Kansas

Janis McMillen, President

Date: February 17, 2004

Subject: House Bill 2798

The League of Women Voters of Kansas, with a state-wide membership of approximately 700, wishes to go on record as opposing HB 2798. In brief, the position of the League of Women Voters of the United States says:

The League of Women Voters of the United States believes that the proliferation of handguns and semi-automatic assault weapons in the United States is a major health and safety threat to its citizens.

The League supports licensing procedures for gun ownership for private citizens to include a waiting period for background checks, personal identity verification, gun safety education and annual license renewal. The license fee should be adequate to bear the cost of education and verification.

The League acknowledges that the U.S. Supreme Court and the lower federal courts have ruled consistently that the Second Amendment confers a right to keep and bear arms only in connection with service in a well-regulated militia – known today as the National Guard.

At issue is the safety and security of our citizenry. The proliferation of weapons, and particularly concealed weapons, for personal use puts families, adults and children in an unsafe and threatening environment. HB 2798 would do nothing to ameliorate this concern, as it omits significant public buildings where the carry of concealed weapons would be unlawful.

Kansans, even recognizing they are one of few states without laws permitting concealed carry, have shown minimal interest in having a concealed carry law since the previous administration negated the enactment of such a law the mid 1990s. Considering any citizen who wishes can obtain a permit to carry a weapon, what possible advantage can be realized by concealing that weapon? Unfortunately, our society is no longer “a kinder and gentler nation”, and it is imperative that we do everything possible to reverse the trend of increasing violence in our society. Permitting concealed carry would be a step in the wrong direction.

Since 1920 the League of Women Voters has been a nonpartisan political organization that encourages the informed and active participation of citizens in government and influences public policy through education and advocacy.

HS Federal & State Affairs
February 18, 2004
Attachment 10



Mark Desetti, testimony
House Committee on Federal and State Affairs
February 18, 2004
House Bill 2798

Mr. Chairman, members of the committee, thank you for the opportunity to share testimony on House Bill 2798 with you today. My name is Mark Desetti and I represent the Kansas National Education Association.

KNEA as an organization has not taken a position on whether or not concealed firearms should be allowed in Kansas. We do however have a position on firearms and our students.

We cannot allow any firearms to be carried near our teachers and the students they serve. To that end we believe this bill falls short of ensuring that school employees and students are protected.

I refer to new section 10 which prohibits carrying a concealed weapon into certain places. While it prohibits the carrying of firearms at school athletic events or into school facilities, we believe these two exceptions are too limiting. For example, in places where school bands and orchestras perform in community centers or performing arts centers, would firearms be allowed if not otherwise posted? These would be school activities but not athletic activities. Firearms must not be allowed near any school function or activity regardless of where that activity might be. Under this bill firearms are not prohibited in churches yet many of our young people attend youth meetings in church basements and social halls and, in the event of an accident or deliberate shooting, our schools will be called upon to provide counseling and support for the community's young people. How can we allow firearms where children congregate?

Subsection (b) of section 10 classifies carrying a weapon into a school or to a school athletic event as a class B misdemeanor. The penalty is a fine and up to six months in a county jail. Of course the penalty is a little stiffer if you happen to be drunk or on drugs – then you get up to a year in the county jail. Frankly, we believe the protection of our children is paramount and there is simply no excuse for carrying a gun near a school or a school event of any kind. Responsible adults should know this and be prepared. “I’m going to the basketball game; leave my gun at home.”

Zero tolerance policies have been promoted by policymakers for years. We read in the paper of children expelled for a year for carrying a toy gun or knife in a backpack or a few Tylenol. If little kids get a year for a toy, how do we explain that adults get six months for a firearm? When it comes to protecting our schools, we must have zero tolerance for firearms. Anything less is truly criminal.

HS Federal & State Affairs
February 18, 2004
Attachment 11



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

Testimony Regarding HB 2789
Before the House Federal and State Affairs Committee

Kyle G. Smith
Director of Public and Governmental Affairs
Kansas Bureau of Investigation
February 18, 2004

Representative Mason and Members of the Committee,

I appear today on behalf of KBI Director Larry Welch to clarify some issues in regards HB 2789.

First, the KBI is a criminal investigative agency. We were created in 1939 with the specific purpose of helping local law enforcement agencies conduct criminal investigations and that mission continues to this day. While we have very good investigators and scientist, the KBI is not an administrative or licensing agency. Nor do we wish to become one, particularly at the risk of diverting needed resources away from investigations. While we appreciate the confidence the drafters of this bill apparently have in our knowledge of firearms and training, the KBI would prefer not to become a licensing agency nor assume the additional duties and liability in HB 2789. Perhaps some other agency that already has staff and experience with licensing and administrative law might be a better fit and the KBI could provide some technical assistance. Also, the KBI also has a crucial space shortage. As such, additional office space, at another location, would need to be obtained to run the licensing unit.

Regardless of which agency is responsible, we would also suggest that there needs to be an appropriation made for start up costs. Funding which could be repaid later when the licensing process generates revenue. While designed to be self funding, if passed, on July 1 who is to design and print the applications, training requirements, etc. to start the licensing process and how are they to be paid? The KBI does not have extra personnel or resources to absorb the substantial demands this legislation will place on the licensing agency.

Finally, some of the licensing requirements would be difficult or impossible under current law. For instance, mentally ill applicants would be difficult or impossible to identify unless SB 504, opening and creating a database on care and treatment court records would need to also be passed if the required checks were to really carried out.

Thank you for your time. I'd be happy to answer any questions.