

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on February 2, 2005 in Room 313-S of the Capitol.

All members were present except:

Representative Kenny Wilk- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:

Rep. David Huff
Chief Ellen Hanson
Capt. Steve Smith
Corporal Fred Farris, Lenexa Police Department

Others attending:

See attached list

Chairman Edmonds called the meeting to order and opened the floor for bill introductions.

Representative Dillmore requested introduction of a version of **SB 77** a racial profiling bill.

With no objection, the bill was accepted for introduction.

Representative Mah requested introduction of a bill that would removes the earning limitations of KPERS retirees.

With no objection, the bill was accepted for introduction.

Representative Novascone requested introduction of a bill concerning purchases of wine in the state.

With no objection, the bill was accepted for introduction.

Representative Brunk requested introduction of a bill regarding the victims of unborn violence act.

With no objection, the bill was accepted for introduction.

Chairman Edmonds opened the meeting for public hearing on **HB 2033** a bill relating to criminal use of weapons such as stun guns and Tasers and recognized Representative Huff.

Representative Huff presented testimony before the committee in support of **HB 2033**. His testimony related that stun guns and Tasers are solely for the purpose of incapacitating an individual for a few seconds. These devices could be used against any person, even a police officer, to gain control for those few seconds. Users could take an officers weapon or perform a quick robbery. Representative Huff stated that he sees no reason why a private citizen would need such an apparatus. (Attachment 1) The Representative also included in his presentation a copy of an article regarding the use of a stun gun in a Kansas City store robbery (Attachment 2), a copy of the penal codes affecting air Tasers, (Attachment 3) and a copy of a questionnaire that he had submitted to his district regarding the use of Taser guns by private citizens. (Attachment 4)

Next to address the committee in support of **HB 2033** was Corporal Fred Farris of the Lenexa, Kansas Police Department. Corporal Farris has been in law enforcement for fifteen years and currently is the lead instructor for less-lethal weapons for the Lenexa Police Department. He stated that the Tasers and stun guns were designed to give law enforcement the ability to handle drug induced, extremely focused, emotionally disturbed, or violent individuals that didn't necessarily fall under the category of lethal force justification.

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on February 2, 2005 in Room 313-S of the Capitol.

Corporal Farris described the Taser and M26 as weapons that fire two weighted barbs delivering a five second, 50,000 volt charge that disrupts both the sensory and motor nervous system.

Corporal Farris related that he cannot teach officers to fight when completely incapacitated. He urged the support of **HB 2033**. (Attachment 5)

Next to request support of **HB 2033** was Captain Steve Smith of the Lenexa Kansas Police Department who has been in law enforcement for thirty-one years. Captain Smith is also nationally recognized as an instructor on Special Weapons & Tactics for the International Association of Chiefs of Police and is on the National Tactical Officers Association Board of Directors. The Captain stated that the need for this legislation exists because the threat exists. Seven states and the District of Columbia have already banned the sale or use of Tasers by civilians and he asked that Kansas join these governments in protecting those who protect us. (Attachment 6)

Chief of Police Ellen Hanson, Lenexa, Kansas also addressed the committee in support of **HB 2033**. Chief Hanson expressed her concern that these weapons present a significant danger to the general public and they create a whole new classification of potential crime victims. It is also important to note that they serve no useful purpose in the hands of any person except those enforcing the law. Chief Hanson also stated that recently the Kansas Association of Chief of Police voted unanimously to support this legislation. (Attachment 7)

There were no other person wishing to address **HB 2033** and with no further business before the committee Chairman Edmonds adjourned the meeting.

HB 2033

Thank you very much Chairman Edmonds, Vice Chair Siegfried, Ranking member Burroughs. Mr Chairman, I truly miss sitting at your right side after four years and I also miss your great secretaries, Carol and Sue.

Mr. Chairman, carrying a concealed weapon such as a firearm has many advantages to the average citizen's safety. But let us separate firearms from Stun guns and Tazers. These devices, unlike actual firearms, are not effective in protecting persons or property. The sole purpose of these devices is to incapacitate an individual for a few seconds. It is clear that these devices could be used against any person, even a police officer, to gain control for those few seconds. Users could take an officers weapon or perform a quick robbery (see article attached.)

I know of no retail outlets that sell Tazers or

Stun guns but you can now buy these items over the internet (see attached ad.) Many states and cities across our nation have enacted legislation banning Stun guns and Tazers (see list attached.)

Mr. Chairman let me call the committees attention to a survey sent out to voter in my district. I believe my district is fairly typical when compared to other Kansas districts (also attached.)

Mr. Chairman, I see no reason why a private citizen would need these apparatuses.

Again, thank you Mr. Chairman. I would like to defer any questions at this time because we have experts that will testify and will be able to answer the committees questions.

Rep. David Huff

Stun gun used in KC store robbery

Three robbers barged into a midtown business early Wednesday, used a stun gun to subdue the store owner and fled with money, police said.

"This is the first robbery with an actual stun gun that I can recall," Kansas City police Officer Darin Snapp said.

The robbery happened at 12:20 a.m. Wednesday.

Police said the three robbers pushed their way into Chalkmark Graphics at 3259 Gillham Plaza and immediately fired a stun gun

at the owner.

Though the shock was not as powerful as one delivered by a Taser, which police use, it knocked the owner to the floor. As one robber continued to shock the owner in the face and neck, the victim grabbed for his shotgun, a police report said.

In the struggle over the gun, the victim fell down a staircase. By the time he scrambled up the stairs, the suspects had left with an undisclosed amount of cash.

—Tanyanika Samuels/*The Star*

PENAL CODES AFFECTING AIR TASER

10

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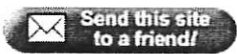
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PENAL CODES AFFECTING AIR TASER

Below are the legal codes of record to the company regarding the AIR TASER. Note: none of these laws were passed with respect to the AIR TASER. These laws pre-date the AIR TASER and were passed regarding stun guns. However, since the AIR TASER can function in a touch stun mode, it is covered by these applicable laws:

CONNECTICUT: Legal w/ restrictions

Connecticut Criminal Law Title 53 Crimes, Title 53a Penal Code. title 54 Criminal

FEDERAL AND STATE AFFAIRS

Date 2-2-05

Attachment 3

States where stun devices are legal but with some restrictions:

Connecticut - Legal for home use, carrying prohibited.

Florida - Legal, subject to restrictions.

Illinois - Legal, subject to restrictions.

Indiana - Legal, subject to restrictions.

North Carolina - Legal, subject to restrictions.

North Dakota - Legal, subject to restrictions.

Ohio - Legal, subject to restrictions.

Washington - Legal, subject to restrictions.

States where stun devices are illegal:

- ✓ Hawaii
- ✓ Massachusetts
- ✓ Michigan
- ✓ New Jersey
- ✓ New York
- ✓ Rhode Island
- ✓ Wisconsin

Cities where stun devices are illegal: (Click on the city name for more details)

- Annapolis, MD
- Baltimore, MD
- Howard County, MD
- Chicago, IL
- Denison / Crawford County, IA (*According to Sheriff Tom Hogan*)
- District Of Columbia
- Philadelphia, PA

Bills I Will Be Introducing:

Tazer Gun Availability:

I will be introducing a bill to prohibit the use of Tazer Stun guns by private citizens. This apparatus should only be used by law enforcement officers. Currently, private citizens can obtain these guns from the Internet.

| | <u>Voter A</u> | <u>Voter B</u> |
|-------------------------|----------------|----------------|
| Yes, I would support | _____ | _____ |
| No, I would not support | _____ | _____ |

| Tazer Gun | | |
|-----------|-----|--------|
| Yes | 204 | 82.93% |
| No | 42 | 17.07% |

| | |
|------------------------------|-----|
| TOTAL NUMBER OF RESPONDENTS: | 246 |
|------------------------------|-----|

| | |
|--------------------------|-----|
| TOTAL NUMBER OF SURVEYS: | 147 |
|--------------------------|-----|

AS OF 1/25/05

Testimony Before the Federal and State Affairs Committee
Regarding House Bill No. 2033

By
Fred J. Farris
Lenexa Police Department

February 2nd, 2005

Mr. Chairman,

I would like to begin by thanking you and members of this committee for allowing me to speak today on the issue of legislating the use, possession, sale and carry of electric stun devices. This type of weapon has been the focus of much media attention and is most commonly known by the product name Taser.

I have been in law enforcement for nearly fifteen years and am currently the lead instructor for less-lethal weapons for the Lenexa Police Department as well as the training coordinator for the Kansas City Metro Tactical Officers Association. I can say without hesitation that the Taser is the most significant tool introduced to law enforcement in the last fifteen years. Events such as Rodney King, Ruby Ridge, and the Branch Davidians brought about a mandate from the public that law enforcement officers have other tools and tactics necessary to handle those situations in which conventional police tactics were no longer acceptable.

This type of weapon was designed to give law enforcement the ability to handle drug induced, extremely focused, emotionally disturbed, or violent individuals that didn't necessarily fall under the category of lethal force justification.

The Taser X26 and M26 both fire two weighted barbs traveling at 166 feet per second that are connected to the weapon by thin electrical wires. The weapon then delivers a five second, 50,000 volt charge that disrupts both the sensory and motor nervous system. Although 50,000 volts sounds ominous, the actual 26 watts of working power comes through very low amps (less than .004 amps) at a very safe energy. To put the energy into perspective, cardiac defibrillators are measured in Joules and deliver 150-400 Joules per pulse of energy. Cardiac pacemakers are designed to withstand a cardiac defibrillation. The M26 delivers 1.76 Joules and the X26 delivers only .36 Joules.

This electrical energy is delivered in a wave that closely mimics the wave the brain uses to communicate with the muscles in the body. The effect is that very low energy temporarily disrupts the sensory and motor nervous system causing complete muscle lockup and pain. Where conventional weapons such as pepper spray or mace, joint locks and impact weapons work primarily through pain compliance, the Taser weapons render the subject completely helpless with little if any injury or side effects. Because they are affecting the sensory and motor nervous systems, the weapon is still effective on those

FEDERAL AND STATE AFFAIRS

Date 2-2-05

Attachment 5

individuals that may be under the influence of drugs or are emotionally disturbed. The end result is a tool that poses less risk of injury to both the officer and the subject.

This weapon is now being implemented in mass numbers throughout the law enforcement community and is also being implemented within the Department of Defense for use in the Middle East. I am not here today to convince you of the effectiveness of this weapon or its success within law enforcement but rather to explain to you why the technology that has made such an impact on how I do my job can also have grave consequences if allowed to be in the hands of civilians.

In 2004 Taser International began marketing a civilian model of the X26 for personal defense. Unlike previous versions of the stun gun, the X26^C will also deliver the electrical charge through the projectile barbs up to a distance of fifteen feet. The X26^C has the same frame, same laser sighting system and will use the same cartridges as those used by law enforcement. Unlike the law enforcement model which delivers an automatic 5 second charge, the civilian model will deliver a 10 second charge on the first pull of the trigger and up to a 30 second charge on subsequent trigger pulls.

Herein lies the concern of the law enforcement community. For the same reasons that I am such a strong supporter of this weapon for law enforcement, I am gravely concerned for my brothers and sisters in uniform that may come up against an individual with a stun weapon or Taser. As taken directly from the Taser training manual, there are limits to weapons currently at our disposal.

Chemical agents such as Oleoresin Capsicum (pepper spray), Mace, and even CN or CS (tear gas) primarily affect the upper respiratory system and tear ducts. As an instructor, I routinely train officers that they can still fight through an exposure to any of these agents and the Taser training material provides video clips to prove that.

Lethal force also has its limitations. With the exception of a direct shot to the head or heart, lethal confrontations are winnable and we currently engrain in our officers that they can win a lethal confrontation and that they always continue to fight. There are countless stories from officers who never gave up and survived the most horrific lethal confrontations.

But as Taser International proclaims and I as well as thousands of officers around the country that have experienced an exposure can attest, this technology renders an individual helpless and completely incapacitated for the duration of the charge. Because the electricity has a two inch arc and doesn't require skin penetration by the barbs to deliver the full effect, not even our body armor can provide protection against an attacker.

Now the scenario unfolds. An officer has stopped an individual on a highway. The individual is an otherwise law abiding citizen who is now under the influence of drugs or alcohol. The individual is determined to escape and is able to deploy the civilian model Taser at the officer who is struck while standing in the highway and is immediately incapacitated. There is oncoming traffic and the officer, who is fully aware of everything

going on, is unable to pull himself out of the road and is struck. The individual stopped might be a dangerous felon who is able to deploy the weapon at the officer and while the officer is totally incapacitated the suspect disarms the officer and uses lethal force on him before making his escape.

These are only two examples of the grave consequences we face if these weapons are not outlawed for civilian purchase, use or carry. I cannot teach officers to fight through complete incapacitation. Where I may be at somewhat of an advantage in that I will usually have other officers with me on calls, there are times when I am alone on the highway or interstate and there many officers, deputies and troopers across this state that are routinely without backup. On their behalf I ask that your affirm House Bill 2033 and join Hawaii, Massachusetts, Michigan, New Jersey, New York, Rhode Island, Wisconsin and the District of Columbia in banning the civilian use of this type of weapon.

Thank you.

**TESTIMONY BEFORE THE FEDERAL & STATE AFFAIRS COMMITTEE
REGARDING HOUSE BILL 2033**

Thank you Mr. Chairman for allowing me an opportunity to address this committee.

My name is Steve Smith, I am a Captain with the Lenexa KS Police Department and have been in law enforcement for 31 years. Besides my duties at the Department, I am a nationally recognized instructor on Special Weapons & Tactics for the International Association of Chiefs of Police and on the National Tactical Officers Association Board of Directors. These collateral duties provide me with an opportunity to interact with law enforcement professionals throughout the United States. During these interactions the subject of officer safety and officer survival are often discussed.

In 2003, a total of 52 law enforcement officers were feloniously killed in 46 separate incidents in 25 states. Thankfully Kansas did not suffer a tragic loss during this time period. Of the officers slain in 2003, 28 were employed by city police departments, 19 employed by county agencies and 5 of the fallen officers worked for state law enforcement. The composite of the 52 law enforcement officers killed in 2003 shows 50 of the 52 slain officers were male, the average age was 38 years old and they had 10 years of law enforcement experience. Please note that the majority of the 52 law enforcement professionals came from agencies both large and small, were mature and experienced not naïve youngsters or older, pending retirement.

Another interesting fact is that of the 45 officers who were killed by assailants using firearms in 2003, 11 of the slain officers were killed with their own weapon, 24 of the victim officers were within 5 feet of their attackers and 12 of the slain officers were within 6-10 feet of their assailants. The Taser in question has an effective range of 15 feet. This adds one more safety issue that law enforcement officers must beware of and consider when dealing with individuals on the street.

Now consider that during the 10-year period 1994 through 2003, 616 law enforcement officers were feloniously killed in the line of duty. Of those 30.4 percent of the officers died while making arrests, 16.4 percent died during traffic stops, and 16.2 percent were killed in ambush situations. Also during the decade, 15.9 percent of the Nation's slain law enforcement officers were killed while answering disturbance calls, and 15.6 percent died while investigating suspicious persons or circumstances. Data also showed that 3.2 percent of the victim officers were handling, transporting, or maintaining custody of prisoners, and 2.3 percent of the offices were killed while handling mentally deranged persons. Bottom line, of the 616 law enforcement officers feloniously killed nearly 90% died during some of the most common contacts we have with individuals including arrests, traffic stops, disturbance calls and investigating suspicious persons or circumstances.

The need for this legislation exists because the threat exists. Seven states and the District of Columbia have already banned the sale or use of Tasers by civilians. Please join these forward thinking governments in protecting those who protect us.

FEDERAL AND STATE AFFAIRS

Date 2-2-05

Attachment 6



**Testimony of Ellen T. Hanson, Chief of Police Lenexa, Kansas
Before the Federal and State Affairs Committee
In support of Amendment to House Bill No. 2033
February 2, 2005**

Mr. Chairman and members of this committee, you have heard in previous testimony about the scientific operation and the power of taser-like weapons and stun guns and about their proven ability to render any person no matter of size or fitness level, completely helpless for short periods of time. You have also been told about the potential lethal danger these weapons present to law enforcement officers attempting to carry out their official duties and protect the public.

I want to spend just a few more minutes with you today to emphasize the fact that these weapons present a significant danger as well to the general public and that they create a whole new classification of potential crime victims. It is also important to highlight that they serve no useful purpose in the hands of any person except those enforcing the law.

These devices, unlike actual firearms, are not used for hunting or in sport or competition of any type. You certainly are not going to find anyone lining up willing individuals to be shot with a taser like you will find many Kansans hunting game or shooting at paper targets, tin cans, or bottles for entertainment.

The question has been raised about the need for these devices to be sold as self protection devices. It is true that there is some limited use in that capacity but hopefully what you have heard today has convinced you that any usefulness on the part of the few who would be able to use them effectively to protect themselves is vastly outweighed by the danger to the general public and law enforcement officers when the weapons fall into the wrong hands.

Removing hunting, sport, hobbies and self defense as realistic uses leaves just one use remaining and that is to completely incapacitate another human being leaving them immobilized and helpless for a finite period of time.

The desire to do this carries no positive motivation but has a number of very dangerous implications, including but not limited to disarming a police officer, rendering a robbery victim helpless, making it possible to fondle or molest a woman or child for the period of time that they cannot move, torturing people or animals, or to taking any victim under control for the amount of time required to commit any crime.

Remember the physiological reaction that has been described and demonstrated for you here today, a reaction that completely disables the person on the receiving end of the device. Whether that person is an officer of the law or a potential crime victim, the sale, manufacture, purchase, possession or carrying of these weapons needs to be prohibited.

Examples of criminal use of these weapons are becoming more common. Just this past Monday, three men traveling on I-29 were arrested in Kansas City by Missouri Highway Patrol Officers. These men had in their possession about \$30,000 of stolen silver, a large quantity of illegal drugs and were armed with a stun gun. Although formal data is not readily available, a number of my peers around the State have told me that they are seeing an increase in the use of tasers and stun guns in situations of domestic violence, battery, robbery, and other crimes of violence. Yesterday, in response to this and to very strong concerns for the safety of their officers, members of the Kansas Association of Chief of Police voted unanimously to support this legislation.

I appreciate your attention and thank you in advance for any support you can offer to this legislation.