

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:30 a.m. on March 2, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Doug Taylor, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Lauren Douglass, Kansas Legislative Research Department  
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Senator Mike Petersen  
Lana Walsh  
Representative Carl Holmes  
Doug Louis, Director, Kansas Corporation Commission Conservation Division  
Representative David Crum

Others attending:

See attached list.

The Chairman reopened the hearing on **SB 523 - Enacting the Kansas racketeer influenced and corrupt organization act (Kansas RICO act)**. Jason Thompson, staff revisor, reviewed the bill.

Senator Mike Petersen appeared as a proponent and sponsor of the bill. This bill is directed at providing law enforcement with another tool to pursue criminals who engage in a pattern of criminal activity. The bill is modeled after Florida's RICO Act which has been successful in reducing gang related crimes in Florida. Senator Petersen proposed a balloon amendment adding the Federal language "excluding any period of imprisonment" and language increasing the bond amount to help prevent witness intimidation.

(Attachment 1)

Written testimony in support of **SB 523** was submitted by:

Barry Wilkerson, Riley County Attorney, KCDAA Board Member (Attachment 2)

There being no further conferees, the hearing on **SB 523** was closed.

The hearing on **HB 2364 - Court procedure; time limitations for filing** was opened. Jason Thompson, staff revisor, reviewed the bill.

Lana Walsh spoke in support indicating the proposed legislation was introduced to address concerns that the ability to meet filing deadlines would be affected if the Judicial Branch were forced to close for any period of time. The bill amends current law to add "days on which the office of the clerk of the court is not accessible" and is an attempt to avoid one of many serious consequences that could occur should the courts be forced to close. (Attachment 3)

There being no further conferees, the hearing on **HB 2364** was closed.

The Chairman opened the hearing on **HB 2418 - Carbon dioxide reduction act; limiting liability of the state of Kansas**. Jason Thompson, staff revisor, reviewed the bill.

Doug Louis appeared in a neutral capacity providing the Committee on the development of the Rules and Regulations on Carbon Sequestration as directed the 2007 HB 2419. Following numerous meetings, the Commission adopted the regulations on January 20, 2010 which became effective on February 25, 2010. The proposed changes in **HB 2418** clearly limits the state assuming liability of CO<sub>2</sub> post-closure sites, but allows the KCC to remediate a situation in an emergency when there is no viable operator. (Attachment 4)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on March 2, 2010, in Room 548-S of the Capitol.

Written testimony in support of **HB 2418** was submitted by:  
Representative Carl Holmes (Attachment 5)

The Chairman opened the hearing on **HB 2582 - Adding conspiracy and attempt to special sentencing requirement of presumptive**. Jason Thompson, staff revisor, reviewed the bill.

Representative David Crum appeared in support, stating this bill was introduced due to a considerable increase in property crime in rural Butler County. This bill amends current sentencing guidelines regarding punishment for burglary when the defendant has a prior conviction. Enactment of this bill will raise the ante for property crime in an attempt to discourage this activity. (Attachment 6)

Written testimony in support of **HB 2582** was submitted by:  
Sheriff Craig Murphy, Butler County Sheriff (Attachment 7)  
Jerry Maier (Attachment 8)  
Orville Carver (Attachment 9)

There being no further conferees, the hearing on **HB 2582** was closed.

The next meeting is scheduled for March 3, 2010.

The meeting was adjourned at 10:30 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: March 2, 2010

NAME	REPRESENTING
Jeff Botenberg	State Farm
Levi Henry	Sandstone Group LLC
Doug Louis	KCC
Lance WASH	Judicial Branch
Richard Sturtevant	Kearny & Assoc.
TOM DAY	KCC
Ed Kump	KACP/KSA/KPOA
Bob Keller	JCSO
DAVID BURGER	JCSO
Brenda Harmon	KSC
Kevin Barone	Cep. Lab Corp
Joseph Mihis	KS BAR ASSN.
Gail Bright	Office of the Kansas Securities Commissioner
JEREMY BARCLAY	KDOC



SENATOR MIKE PETERSEN

2608 S.E. DRIVE  
WICHITA, KANSAS 67216  
(316) 264-1817

STATE CAPITOL, ROOM 242-E  
TOPEKA, KANSAS 66612  
(785) 296-7355  
mike.petersen@senate.ks.gov

COMMITTEES  
VICE CHAIR: UTILITIES  
MEMBER: LOCAL GOVERNMENT  
TRANSPORTATION  
JOINT COMMITTEE ON  
INFORMATION TECHNOLOGY

February 25, 2010

## SB 523

Chairman Owens, Members of the Committee,

SB 523 will create The Kansas Racketeer, Influenced and Corrupt Organization Act.

This Act should give our State law enforcement tools to pursue criminals who engage in a pattern of criminal activity. This legislation is modeled after Florida's R.I.C.O. Act which has been successful in reducing gang related crimes in the state of Florida. The goal of this Act is to help law enforcement prosecute the people financing and leading criminal enterprises engaged in a pattern of racketeering. "Pattern of racketeering" is defined on page four of the bill which requires two previous incidents of racketeering activity within five years. One incident must be after the enactment of this bill. This act creates a level two person felony. The high severity level felony has been used by prosecutors to encourage people charged, to provide information pertaining to those involved at higher levels in the criminal organization. Florida's successful R.I.C.O. Act was first enacted 28 years ago. Since the enactment of this act 4,233 charges have been filed, 1,258 convictions with 621 charges resulting in 487 people sentenced to the state prison. Adjusting for Kansas's population difference 18.7 million for Florida to 2.7 million for our state, Kansas has a population roughly of 14.5% of Florida and dividing by 28 years a rough estimate this impact would come out to around 3.2 per year. As noted in the bed space impact report it is very difficult to determine the actual impact. I have been told Florida has seen reductions in gang related activity since they started using their State R.I.C.O. Act to address the people financing or running gangs.

I have attached an amendment proposed by Law Enforcement to:

- 1.) Add the Federal language ("excluding any period of imprisonment") and
- 2.) using the model from the new drug code and criminal state gang statute. Add language increasing the bond amount to help prevent witness intimidation.

Senate Judiciary

3-2-10

Attachment 1

Deputy Chief Tom Stolz, with the Wichita Police Department, also recommended in addition to the above items we look at seizure legislation allowing the seizure of a vehicle when someone shoots another person in a vehicle or a person on a street corner not just allowing seizure when they shoot at a house. Also attached are comments and analysis I requested from an assistant U.S. Attorney who worked the R.I.C.O. case in Wichita. I just received these comments this week after the attached balloon was sent to law enforcement officials. This is a cut and paste as I was unable to contact them for permission to use their name.

Thank you for your consideration,

Senator Mike Petersen

A handwritten signature in blue ink that reads "Mike Petersen". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

**RECORDS FROM FLORIDA'S CRIMINAL HISTORY FILES, 1982 - PRESENT**  
**Arrests and Convictions for violation of Florida Statutes 895.01 - 895.06**

	Individuals	Events	Charges
Arrests	3,115	3,441	4,233
Convictions	1,007	1,021	1,258
Convictions resulting in sentence to State Prison*	487	494	621

\* This is a subset of Convictions.

FLORIDA  
 POPULATION 18,7  
 KANSAS 2.7M  
 14.5%

Florida's Computerized Criminal History (CCH) is fingerprint-based and, unless prints were taken at a later stage in the criminal justice process, does not include records involving a notice to appear, direct files or sworn complaints where no physical arrest was made. FDLE does not warrant that the records provided are comprehensive or accurate as of the date they are provided, only that they contain information received by FDLE from contributing agencies, and that any errors or omissions brought to FDLE's attention are investigated and, as needed, corrected. Note that Florida Statute is an optional field for the Arrest segment. As such, approximately 25 percent of arrest entries do not contain statute reference. CCH data is as of February 2, 2010.

Data prepared and provided by the Florida Statistical Analysis Center, February 5, 2010.  
 Prepared for Athena Andaya, Kansas Legislature Research Department (785-296-4420),

THE FOLLOWING COMMENTS WERE SENT TO ME BY AN ASSISTANT U.S. ATTORNEY WHO WORKED THE FEDERAL RICO CASE IN WICHITA

Here are just a few thoughts as I read Senate Bill 523:

1. On page 4, line 22-23, "pattern of racketeering activity" (or as I call it "PORA") is defined as "two incidents of racketeering conduct." Since your definitions use the words "racketeering activity" I wonder if it wouldn't be better to use the phrase "two incidents of racketeering activity."

2. On that same page, line 27 the bill defines the incidents as occurring "within 5 years" after the prior incident. Our statute provides for a ten year term. I would suggest allowing up to ten years and stating that this period of time excludes terms of imprisonment. We had several people who were "shot callers" while in prison but we could not prove that they actively committed any racketeering acts while locked up. If we had been limited to 5 years, and if the period of incarceration were not excluded from this calculation, we would not have been able to prosecute the "shot callers" until they were released and then committed new crimes falling within our statutory definitions.

3. I noticed that the bill, at the end of New Section 3, page 5, did not define a RICO violation as conspiring to commit any of the proceeding violations. I apologize if that is in the statute and I missed it, but if it is not, I would strongly urge you to consider putting a conspiracy section in your bill. In the federal statute it reads as follows: "It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

In our trials, the jury had no trouble finding the evidence proved a conspiracy to engage in a racketeer influenced and corrupt organization. The jury, however, had trouble with the substantive RICO violations. We talked to both juries and were never clear why they had difficulty with substantive RICO, except to say that a few jurors expressed an "issue" with the RICO statute indicating that they were philosophically opposed to finding that the Crips were an "enterprise."

Wichita Police Department officers, like Capt. Jeff Easter or Det. Bradley Elmore, may have some other thoughts on what the issue was in our case. However, to the extent that my opinion means anything, I would strongly suggest including the RICO conspiracy, if you haven't already.


4. I noticed in your list of crimes constituting "racketeering activity" that you included gun violations. I hope that these offenses stay in your statute. The federal statute does not allow us to use gun violations as proof of a PORA, which is unfortunate when dealing with gang members who are frequently caught holding weapons.

I think your proposed statute is wonderful. I wish you the best in passing it.



Home FAQs The Law Additional Resources Press Releases Promotional Flyer

**Statewide Gang Strategy**




A comprehensive and coordinated plan to reduce criminal gang activity in Florida.  
[Learn more](#)

Search:  This Site  Web

- Things to Know**
- [What Is The Florida Criminal Gang Prevention Act?](#)
  - [How Does Florida Define A Gang Member?](#)
  - [What is the Florida RICO Act?](#)
  - [Are You Aware Of Gangs In Your Community?](#)
  - [Parent Information](#)
  - [How Do I Report Gang Activity?](#)
- Press Releases**
- [February 3, 2010 Attorney General Announces Search for Two Fugitive Gang Members](#)
  - [January 22, 2010 Three Tampa Area Gang Members Convicted](#)
  - [October 19, 2009 Orange County Jury Convicts North Florida Gang Members](#)

**Regional Task Forces**




Become informed about Gang Reduction Task Force efforts in your region.  
[Learn more](#)

**Attorney General Bill McCollum Press Release**  
 September 4, 2009  
 Media Contact: Sandi Copes (850) 245-0150  
[Printer Friendly](#) [en Español](#)

*SUR 13 Gang Member and Drug Trafficker Sentenced to 35 Years for Criminal Racketeering, Conspiracy to Traffic Cocaine*

TALLAHASSEE, FL -- Attorney General Bill McCollum today announced an Orange County man has been sentenced to 35 years in prison and \$510,000 in fines for criminal racketeering charges and drug trafficking charges stemming from his involvement in a narcotics trafficking enterprise in Central Florida. Juan Javier Romo-Jimenez, of Apopka, was prosecuted by the Attorney General's Office of Statewide Prosecution.

**Gang Awareness**



Learn how to recognize gang activity and prevent gang involvement among youth.  
[Learn more](#)

Romo-Jimenez was among 36 defendants indicted by the 18th Statewide Grand Jury on numerous charges related to drug trafficking. The indictment was handed down in April 2008 and was the result of an 11-month investigation by federal, state and local law enforcement agencies.

Court-ordered wiretaps were used to expose a multi-jurisdictional cocaine trafficking enterprise that was receiving cocaine from Mexico and distributing the drugs throughout Apopka, Winter Garden, Winter Park, Orlando, Eustice, Zellwood and Mount Dora communities. Romo-Jimenez, a documented SUR 13 gang member, was at the heart of the operation that was responsible for trafficking in hundreds of thousands of dollars worth of powder and crack cocaine.

**Contact Us**

address: Attorney General of Florida  
 The Capitol, PL-01  
 Tallahassee, FL 32399

phone: (850) 414-3300

website: [www.myfloridalegal.com](http://www.myfloridalegal.com)

online: [Contact Form](#)

news: [Weekly Newsletter](#)

Authorities determined that Romo-Jimenez, 32, received shipments of cocaine from two codefendants. As part of the investigation, the Metropolitan Bureau of Investigation, the Florida Department of Law Enforcement and the U.S. Drug Enforcement Administration seized thousands of dollars in cash and four kilograms of cocaine, worth more than \$400,000 in terms of street value.

Circuit Judge Bob LeBlanc handed down the sentence this morning after Romo-Jimenez was determined by the court to be a SUR 13 gang member who committed his crimes to benefit, further, or promote the interests of the SUR 13 gang. The other 35 defendants have already been prosecuted and all received sentences related to their involvement.

The joint investigation was conducted by the Orange County Sheriff's Office Gang Enforcement Unit, the Metropolitan Bureau of Investigation, the Florida Department of Law Enforcement, the Apopka Police Department, and the U.S. Drug Enforcement Administration.

1-5



**SENATE BILL No. 523**

By Senators Petersen and Schodorf

SB523-Balloon1.pdf  
RS - JThompson - 02/23/10

1-6

2-3

9 AN ACT concerning crimes, punishment and criminal procedure; en-  
10 acting the Kansas racketeer influenced and corrupt organization act;  
11 amending K.S.A. 2009 Supp. 60-4104 and repealing the existing  
12 section.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. Sections 1 through 5, and amendments thereto, shall  
16 be known and may be cited as the Kansas racketeer influenced and cor-  
17 rupt organization act (Kansas RICO act).

18 New Sec. 2. As used in the Kansas racketeer influenced and corrupt  
19 organization act:

20 (a) "Racketeering activity" means to commit, attempt to commit, con-  
21 spire to commit or to solicit, coerce or intimidate another person to  
22 commit:

23 (1) Any violation of: K.S.A. 8-1568, and amendments thereto, fleeing  
24 or attempting to elude a police officer; K.S.A. 9-508 et seq., and amend-  
25 ments thereto, Kansas money transmitter act; article 12a of chapter 17 of  
26 the Kansas Statutes Annotated, and amendments thereto, Kansas uniform  
27 securities act; K.S.A. 21-3401, and amendments thereto, murder in the  
28 first degree; K.S.A. 21-3402, and amendments thereto, murder in the  
29 second degree; K.S.A. 21-3403, and amendments thereto, voluntary man-  
30 slaughter; K.S.A. 21-3404, and amendments thereto, involuntary man-  
31 slaughter; K.S.A. 21-3405, and amendments thereto, vehicular homicide;  
32 K.S.A. 21-3406, and amendments thereto, assisting suicide; K.S.A. 21-  
33 3408, and amendments thereto, assault; K.S.A. 21-3409, and amendments  
34 thereto, assault of a law enforcement officer; K.S.A. 21-3410, and amend-  
35 ments thereto, aggravated assault; K.S.A. 21-3411, and amendments  
36 thereto, aggravated assault of a law enforcement officer; K.S.A. 21-3412,  
37 and amendments thereto, battery; K.S.A. 21-3412a, and amendments  
38 thereto, domestic battery; K.S.A. 21-3413, and amendments thereto, bat-  
39 tery against a law enforcement officer; K.S.A. 21-3414, and amendments  
40 thereto, aggravated battery; K.S.A. 21-3415, and amendments thereto,  
41 aggravated battery against a law enforcement officer; K.S.A. 21-3419, and  
42 amendments thereto, criminal threat; K.S.A. 21-3419a, and amendments  
43 thereto, aggravated criminal threat; K.S.A. 21-3420, and amendments

6-1

1 thereto, kidnapping; K.S.A. 21-3421, and amendments thereto, aggra-  
2 vated kidnapping; K.S.A. 21-3426, and amendments thereto, robbery;  
3 K.S.A. 21-3427, and amendments thereto, aggravated robbery; K.S.A. 21-  
4 3428, and amendments thereto, blackmail; K.S.A. 21-3437, and amend-  
5 ments thereto, mistreatment of a dependent adult; K.S.A. 21-3439, and  
6 amendments thereto, capital murder; K.S.A. 21-3442, and amendments  
7 thereto, involuntary manslaughter while driving under the influence of  
8 alcohol or drugs; K.S.A. 21-3443, and amendments thereto, battery  
9 against a school employee; K.S.A. 21-3446, and amendments thereto, traf-  
10 ficking; K.S.A. 21-3447, and amendments thereto, aggravated trafficking;  
11 K.S.A. 21-3448, and amendments thereto, battery against a mental health  
12 employee; K.S.A. 21-3449, and amendments thereto, terrorism; K.S.A.  
13 21-3450, and amendments thereto, illegal use of weapons of mass de-  
14 struction; K.S.A. 21-3451, and amendments thereto, furtherance of ter-  
15 rorism or illegal use of weapons of mass destruction; K.S.A. 21-3512, and  
16 amendments thereto, prostitution; K.S.A. 21-3513, and amendments  
17 thereto, promoting prostitution; K.S.A. 21-3516, and amendments  
18 thereto, sexual exploitation of a child; article 36a of chapter 21 of the  
19 Kansas Statutes Annotated, and amendments thereto, crimes involving  
20 controlled substances; article 37 of chapter 21 of the Kansas Statutes  
21 Annotated, and amendments thereto, crimes against property; K.S.A. 21-  
22 3805, and amendments thereto, perjury; K.S.A. 21-3807, and amend-  
23 ments thereto, compounding a crime; K.S.A. 21-3808, and amendments  
24 thereto, obstructing legal process or official duty; K.S.A. 21-3811, and  
25 amendments thereto, aiding escape; K.S.A. 21-3812, and amendments  
26 thereto, aiding a felon; K.S.A. 21-3815, and amendments thereto, at-  
27 tempting to influence a judicial officer; K.S.A. 21-3816, and amendments  
28 thereto, interference with the administration of justice; K.S.A. 21-3817,  
29 and amendments thereto, corrupt conduct by a juror; K.S.A. 21-3830,  
30 and amendments thereto, dealing in false identification documents;  
31 K.S.A. 21-3831 through 21-3836, and amendments thereto, witness or  
32 victim intimidation; K.S.A. 21-3844 et seq., and amendments thereto,  
33 Kansas medicaid fraud control act; K.S.A. 21-3901, and amendments  
34 thereto, bribery; K.S.A. 21-3902, and amendments thereto, official mis-  
35 conduct; K.S.A. 21-3903, and amendments thereto, compensation for past  
36 official acts; K.S.A. 21-3904, and amendments thereto, presenting a false  
37 claim; K.S.A. 21-3905, and amendments thereto, permitting a false claim;  
38 K.S.A. 21-3910, and amendments thereto, misuse of public funds; K.S.A.  
39 21-4201, and amendments thereto, criminal use of weapons; K.S.A. 21-  
40 4202, and amendments thereto, aggravated weapons violation; K.S.A. 21-  
41 4203, and amendments thereto, criminal disposal of firearms; K.S.A. 21-  
42 4204, and amendments thereto, criminal possession of a firearm; K.S.A.  
43 21-4204a, and amendments thereto, criminal possession of a firearm by

1 a juvenile; K.S.A. 21-4205, and amendments thereto, defacing identifi-  
2 cation marks of a firearm; K.S.A. 21-4209, and amendments thereto,  
3 criminal disposal of explosives; K.S.A. 21-4209a, and amendments  
4 thereto, criminal possession of explosives; K.S.A. 21-4210, and amend-  
5 ments thereto, carrying concealed explosives; K.S.A. 21-4214, and amend-  
6 ments thereto, obtaining a prescription-only drug by fraudulent means;  
7 K.S.A. 21-4215, and amendments thereto, obtaining a prescription-only  
8 drug by fraudulent means for resale; K.S.A. 21-4217, and amendments  
9 thereto, criminal discharge of a firearm; K.S.A. 21-4219, and amendments  
10 thereto, criminal discharge of a firearm at an unoccupied dwelling; K.S.A.  
11 21-4220, and amendments thereto, unlawful endangerment; K.S.A. 21-  
12 4225 through 21-4229, and amendments thereto, criminal street gang  
13 prevention act; K.S.A. 21-4301, and amendments thereto, promoting ob-  
14 scenity; K.S.A. 21-4301a, and amendments thereto, promoting obscenity  
15 to minors; K.S.A. 21-4303, and amendments thereto, gambling; K.S.A.  
16 21-4303a, and amendments thereto, illegal bingo operation; K.S.A. 21-  
17 4304, and amendments thereto, commercial gambling; K.S.A. 21-4305,  
18 and amendments thereto, permitting premises to be used for commercial  
19 gambling; K.S.A. 21-4306, and amendments thereto, dealing in gambling  
20 devices; K.S.A. 21-4307, and amendments thereto, possession of a gam-  
21 bling device; K.S.A. 21-4308, and amendments thereto, installing com-  
22 munication facilities for gamblers; K.S.A. 21-4401, and amendments  
23 thereto, racketeering; K.S.A. 21-4402, and amendments thereto, debt ad-  
24 justing; K.S.A. 21-4405, and amendments thereto, commercial bribery;  
25 K.S.A. 21-4406, and amendments thereto, sports bribery; K.S.A. 21-4407,  
26 and amendments thereto, receiving a sports bribe; K.S.A. 21-4408, and  
27 amendments thereto, tampering with a sports contest; K.S.A. 21-4410,  
28 and amendments thereto, equity skimming; K.S.A. 39-720, and amend-  
29 ments thereto, social welfare service fraud; K.S.A. 40-2,118, and amend-  
30 ments thereto, fraudulent insurance acts; K.S.A. 41-101 et seq., and  
31 amendments thereto, Kansas liquor control act; K.S.A. 44-5,125, and  
32 amendments thereto, workers' compensation act; K.S.A. 44-719 et seq.,  
33 and amendments thereto, employment security law; article 6 of chapter  
34 50 of the Kansas Statutes Annotated, and amendments thereto, consumer  
35 protection; K.S.A. 65-1657, and amendments thereto, nonresident phar-  
36 macy registration; K.S.A. 65-3441, and amendments thereto, hazardous  
37 waste; K.S.A. 65-4167, and amendments thereto, trafficking in counterfeit  
38 drugs; article 88 of chapter 74 of the Kansas Statutes Annotated, and  
39 amendments thereto, Kansas parimutuel racing act; or K.S.A. 79-3321,  
40 and amendments thereto, Kansas cigarette and tobacco products act.

41 (2) Any conduct defined as "racketeering activity" under 18 U.S.C.  
42 1961(1).

43 (b) "Unlawful debt" means any money or other thing of value con-

6-1

1 stituting principal or interest of a debt that is legally unenforceable in this  
2 state in whole or in part because the debt was incurred or contracted:

3 (1) In violation of any of the following provisions of law: article 88 of  
4 chapter 74 of the Kansas Statutes Annotated, and amendments thereto,  
5 Kansas parimutuel racing act; K.S.A. 21-4303, and amendments thereto,  
6 gambling; K.S.A. 21-4303a, and amendments thereto, illegal bingo op-  
7 eration; K.S.A. 21-4304, and amendments thereto, commercial gambling;  
8 K.S.A. 21-4305, and amendments thereto, permitting premises to be used  
9 for commercial gambling; K.S.A. 21-4306, and amendments thereto, deal-  
10 ing in gambling devices; K.S.A. 21-4307, and amendments thereto, pos-  
11 session of a gambling device; or K.S.A. 21-4308, and amendments thereto,  
12 installing communication facilities for gamblers.

13 (2) In gambling activity in violation of federal law or in the business  
14 of lending money at a rate usurious under state or federal law.

15 (c) "Enterprise" means any individual, sole proprietorship, partner-  
16 ship, corporation, business trust, union chartered under the laws of this  
17 state, or other legal entity, or any unchartered union, association, or group  
18 of individuals associated in fact although not a legal entity; and it includes  
19 illicit as well as licit enterprises and governmental, as well as other, en-  
20 tities. A criminal street gang, as defined in K.S.A. 21-4226, and amend-  
21 ments thereto, constitutes an enterprise.

22 (d) "Pattern of racketeering activity" means engaging in at least two  
23 incidents of racketeering conduct that have the same or similar intents,  
24 results, accomplices, victims, or methods of commission or that otherwise  
25 are interrelated by distinguishing characteristics and are not isolated in-  
26 cidents, provided at least one of such incidents occurred after the effec-  
27 tive date of this act and that the last of such incidents occurred within 5  
28 years after a prior incident of racketeering conduct.

, excluding any period  
of imprisonment,

29 (e) "Documentary material" means any book, paper, document, writ-  
30 ing, drawing, graph, chart, photograph, phonorecord, magnetic tape,  
31 computer printout, other data compilation from which information can  
32 be obtained or from which information can be translated into usable form,  
33 or other tangible item.

34 (f) "Beneficial interest" means:

35 (1) The interest of a person as a beneficiary under any trust arrange-  
36 ment pursuant to which a trustee holds legal or record title to real prop-  
37 erty for the benefit of such person; or

38 (2) the interest of a person under any other form of express fiduciary  
39 arrangement pursuant to which any other person holds legal or record  
40 title to real property for the benefit of such person.

41 The term "beneficial interest" does not include the interest of a stock-  
42 holder in a corporation or the interest of a partner in either a general  
43 partnership or a limited partnership. A beneficial interest shall be deemed

01-10

- 1 to be located where the real property owned by the trustee is located.
- 2 (g) "Real property" means any real property or any interest in such
- 3 real property, including, but not limited to, any lease of or mortgage upon
- 4 such real property.
- 5 (h) "Trustee" means:
- 6 (1) Any person acting as trustee pursuant to a trust in which the
- 7 trustee holds legal or record title to real property;
- 8 (2) any person who holds legal or record title to real property in which
- 9 any other person has a beneficial interest; or
- 10 (3) any successor trustee or trustees to any or all of the foregoing
- 11 persons.
- 12 The term "trustee" does not include any person appointed or acting as
- 13 a personal representative as defined in K.S.A. 59-102, and amendments
- 14 thereto, or appointed or acting as a trustee of any testamentary trust or
- 15 as a trustee of any indenture of trust under which any bonds have been
- 16 or are to be issued.
- 17 New Sec. 3. (a) It is unlawful for any person:
- 18 (1) Who has with criminal intent received any proceeds derived, di-
- 19 rectly or indirectly, from a pattern of racketeering activity or through the
- 20 collection of an unlawful debt to use or invest, whether directly or indi-
- 21 rectly, any part of such proceeds, or the proceeds derived from the in-
- 22 vestment or use thereof, in the acquisition of any title to, or any right,
- 23 interest, or equity in, real property or in the establishment or operation
- 24 of any enterprise;
- 25 (2) through a pattern of racketeering activity or through the collection
- 26 of an unlawful debt, to acquire or maintain, directly or indirectly, any
- 27 interest in or control of any enterprise or real property; and
- 28 (3) employed by, or associated with, any enterprise to conduct or
- 29 participate, directly or indirectly, in such enterprise through a pattern of
- 30 racketeering activity or the collection of an unlawful debt.
- 31 (b) Violation of this section is a severity level 2, person felony.
- 32 (c) (1) Notwithstanding the provisions of K.S.A. 21-4503a, and
- 33 amendments thereto, any person convicted of engaging in conduct in
- 34 violation of this section, through which the person derived pecuniary
- 35 value, or by which the person caused personal injury or property damage
- 36 or other loss, may be sentenced to pay a fine that does not exceed three
- 37 times the gross value gained or three times the gross loss caused, which-
- 38 ever is the greater, plus court costs and the costs of investigation and
- 39 prosecution, reasonably incurred.
- 40 (2) The court shall hold a hearing to determine the amount of the
- 41 fine authorized by this subsection.
- 42 (3) For the purposes of this subsection, "pecuniary value" means:
- 43 (A) Anything of value in the form of money, a negotiable instrument,

11-1

1 or a commercial interest or anything else the primary significance of  
2 which is economic advantage; and

3 (B) any other property or service that has a value in excess of \$100.

4 New Sec. 4. (a) Any district court may, after making due provision  
5 for the rights of innocent persons, enjoin violations of the provisions of  
6 section 3, and amendments thereto, by issuing appropriate orders and  
7 judgments, including, but not limited to:

8 (1) Ordering any defendant to divest such defendant of any interest  
9 in any enterprise, including real property.

10 (2) Imposing reasonable restrictions upon the future activities or in-  
11 vestments of any defendant, including, but not limited to, prohibiting any  
12 defendant from engaging in the same type of endeavor as the enterprise  
13 in which the defendant was engaged in violation of the provisions of sec-  
14 tion 3, and amendments thereto.

15 (3) Ordering the dissolution or reorganization of any enterprise.

16 (4) Ordering the suspension or revocation of a license, permit, or  
17 prior approval granted to any enterprise by any agency of the state.

18 (5) Ordering the forfeiture of the charter of a corporation organized  
19 under the laws of the state, or the revocation of a certificate authorizing  
20 a foreign corporation to conduct business within the state, upon finding  
21 that the board of directors or a managerial agent acting on behalf of the  
22 corporation, in conducting the affairs of the corporation, has authorized  
23 or engaged in conduct in violation of section 3, and amendments thereto,  
24 and that, for the prevention of future criminal activity, the public interest  
25 requires the charter of the corporation forfeited and the corporation dis-  
26 solved or the certificate revoked.

27 (b) All property, real or personal, including money, used in the course  
28 of, intended for use in the course of, derived from, or realized through  
29 conduct in violation of a provision of the Kansas racketeer influenced and  
30 corrupt organization act is subject to civil forfeiture pursuant to the Kan-  
31 sas standard asset seizure and forfeiture act, K.S.A. 60-4101 et seq., and  
32 amendments thereto.

33 New Sec. 5. (a) For the purposes of this section, "attorney" means  
34 the attorney general, assistant attorney general, county attorney or district  
35 attorney, or in the absence of the county or district attorney a designated  
36 assistant county or district attorney. If an assistant county or district at-  
37 torney is designated by the county or district attorney for the purposes  
38 of this section, such designation shall be filed with the chief judge of such  
39 judicial district.

40 (b) If an attorney is informed or has knowledge that a person or other  
41 enterprise has engaged in, or is engaging in, activity in violation of the  
42 Kansas racketeer influenced and corrupt organization act, such attorney  
43 shall be authorized to administer oaths or affirmations, subpoena wit-

(d) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, unless the court determines on the record that the defendant is not likely to re-offend, an appropriate intensive pretrial supervision program is available and the defendant agrees to comply with the mandate of such pretrial supervision.



1-12

1 nesses or material, and collect evidence relating to such activity.

2 (c) An attorney may apply *ex parte* to the district court of the district  
3 in which a subpoenaed person or entity resides, is found or transacts  
4 business, for an order directing that the subpoenaed person or entity not  
5 disclose the existence of the subpoena to any other person or entity except  
6 the subpoenaed person's attorney for a period of 90 days, which time may  
7 be extended by the court for good cause shown by the attorney. The order  
8 shall be served with the subpoena, and the subpoena shall include a ref-  
9 erence to the order and a notice to the recipient of the subpoena that  
10 disclosure of the existence of the subpoena to any other person or entity  
11 in violation of the order may subject the subpoenaed person or entity to  
12 punishment for contempt of court. Such an order may be granted by the  
13 court only upon a showing:

14 (1) Of sufficient factual grounds to reasonably indicate a violation of  
15 the Kansas racketeer influenced and corrupt organization act;

16 (2) that the documents or testimony sought appear reasonably cal-  
17 culated to lead to the discovery of admissible evidence; and

18 (3) of facts which reasonably indicate that disclosure of the subpoena  
19 would hamper or impede the investigation or would result in a flight from  
20 prosecution.

21 (d) If information or evidence that the attorney seeks to obtain by  
22 the subpoena is located outside the state, the person or enterprise sub-  
23 poenaed may make such information or evidence available to the attorney  
24 or such attorney's representative for examination at the place where such  
25 information or evidence is located. The attorney may designate represen-  
26 tatives, including officials of the jurisdiction in which the information or  
27 evidence is located, to inspect the information or evidence on such at-  
28 torney's behalf and may respond to similar requests from officials of other  
29 jurisdictions.

30 (e) Upon failure of a person or enterprise, without lawful excuse, to  
31 obey a subpoena issued under this section or a subpoena issued in the  
32 course of a civil proceeding instituted pursuant to section 4, and amend-  
33 ments thereto, and after reasonable notice to such person or enterprise,  
34 the attorney may apply to the district court in which such civil proceeding  
35 is pending or, if no civil proceeding is pending, to the district court of the  
36 judicial district in which such person or enterprise resides, is found or  
37 transacts business for an order compelling compliance. Except in a pros-  
38 ecution for perjury, an individual who complies with a court order to  
39 provide testimony or material after asserting a privilege against self-in-  
40 crimination to which such individual is entitled by law shall not have the  
41 testimony or material so provided, or evidence derived therefrom, re-  
42 ceived against such individual in any criminal investigation or proceeding.

43 (f) A person who fails to obey a court order entered pursuant to this

1-13

1 section may be adjudged in contempt of court and punished by fine and  
2 imprisonment.

3 Sec. 6. K.S.A. 2009 Supp. 60-4104 is hereby amended to read as  
4 follows: 60-4104. Conduct and offenses giving rise to forfeiture under this  
5 act, whether or not there is a prosecution or conviction related to the  
6 offense, are:

7 (a) All offenses which statutorily and specifically authorize forfeiture;

8 (b) violations of K.S.A. 2009 Supp. 21-36a01 through 21-36a17, and  
9 amendments thereto;

10 (c) theft which is classified as a felony violation pursuant to K.S.A.  
11 21-3701, and amendments thereto, in which the property taken was  
12 livestock;

13 (d) unlawful discharge of a firearm, K.S.A. 21-4219, and amendments  
14 thereto;

15 (e) violations of K.S.A. 2009 Supp. 21-36a16, and amendments  
16 thereto;

17 (f) gambling, K.S.A. 21-4303, and amendments thereto, and com-  
18 mercial gambling, K.S.A. 21-4304, and amendments thereto;

19 (g) counterfeiting, K.S.A. 21-3763, and amendments thereto;

20 (h) violations of K.S.A. 21-4019, and amendments thereto;

21 (i) medicaid fraud, K.S.A. 21-3844 et seq., and amendments thereto;

22 (j) an act or omission occurring outside this state, which would be a  
23 violation in the place of occurrence and would be described in this section  
24 if the act occurred in this state, whether or not it is prosecuted in any  
25 state;

26 (k) an act or omission committed in furtherance of any act or omission  
27 described in this section including any inchoate or preparatory offense,  
28 whether or not there is a prosecution or conviction related to the act or  
29 omission;

30 (l) any solicitation or conspiracy to commit any act or omission de-  
31 scribed in this section, whether or not there is a prosecution or conviction  
32 related to the act or omission;

33 (m) furtherance of terrorism or illegal use of weapons of mass de-  
34 struction, K.S.A. 21-3451, and amendments thereto;

35 (n) unlawful conduct of dog fighting and unlawful possession of dog  
36 fighting paraphernalia, K.S.A. 21-4315, and amendments thereto;

37 (o) unlawful conduct of cockfighting and unlawful possession of cock-  
38 fighting paraphernalia, K.S.A. 21-4319, and amendments thereto; ~~and~~

39 (p) prostitution, K.S.A. 21-3512, and amendments thereto, promot-  
40 ing prostitution, K.S.A. 21-3513, and amendments thereto, and patron-  
41 izing a prostitute, K.S.A. 21-3515, and amendments thereto;

42 (q) *racketeering, K.S.A. 21-4401, and amendments thereto; and*

43 (r) *violations of the Kansas racketeer influenced and corrupt organ-*



1-14

- 1 *ization act, sections 1 through 5, and amendments thereto.*
- 2 Sec. 7. K.S.A. 2009 Supp. 60-4104 is hereby repealed.
- 3 Sec. 8. This act shall take effect and be in force from and after its
- 4 publication in the statute book.



## Kansas County & District Attorneys Association

1200 SW 10th Avenue  
Topeka, KS 66604  
(785) 232-5822 Fax: (785) 234-2433  
www.kcdaa.org

### Senate Judiciary Committee

February 26, 2010

#### Written Testimony in Support of Senate 523

Submitted by Barry Wilkerson, Riley County Attorney and KCDA Board Member

Chairman Owens and Committee Members:

On behalf of the Kansas County and District Attorneys Association, I would offer our support of Senate Bill 523 otherwise known as the Kansas RICO Act. The Kansas County and District Attorneys Association believe that combating gang activity should be a priority. Furthermore, we believe that the crimes of possession of illegal drugs, or possession with intent to sell illegal drugs, the sale or manufacture of narcotics or illegal drugs should be added to fall under the umbrella of crimes covered under the RICO act.

The ability to prosecute all those who are ultimately involved in a criminal enterprise would assist prosecutors and law enforcement in making our communities and our state safer. The act would make it possible for the prosecution of criminal enterprises and those who are members of criminal enterprises, who now, because of their leadership position in a gang, escape the long arm of the law because the actual criminal act is carried out by new members or recruits to gangs or criminal syndicates. These low ranking members are easily replaced as they are not the brains of the criminal organization. The crimes are committed and the leadership of the gang remains intact because of the code of silence that is prevalent.

We however strongly believe that one of the major components of gang activity involves the manufacturing, trafficking, possession and use of narcotics. Adding drug crimes to SB 523 will substantially increase our ability to prosecute gangs and organizations who use membership to distribute narcotics. Typically violent crime is also associated with gangs or organizations who distribute narcotics. Adding the drug crimes to this bill is necessary to giving prosecutors all the legal resources to combat criminal organizations and their leadership.

Thank you for the opportunity to provide written comments on this legislation. We request your favorable consideration of SB 523. We would be happy to answer questions upon request.

Senate Judiciary

3-2-10

Attachment 2



State of Kansas

**Office of Judicial Administration**

Kansas Judicial Center  
301 SW 10<sup>th</sup>  
Topeka, Kansas 66612-1507

(785) 296-2256

Senate Judiciary Committee

Tuesday, March 2, 2010

**Testimony in Support of HB 2364**

Lana Walsh

HB 2364 was requested for introduction in the 2009 legislative session to address concerns that the ability to meet filing deadlines would be affected if the Judicial Branch were forced to close for any period of time. It would amend provisions in current law that excuse filing and other deadlines on Saturdays, Sundays, and holidays to add, "days on which the office of the clerk of the court is not accessible." In other words, if the court is not open and accessible to receive filings, attorneys and litigants will not miss a filing deadline because they cannot access the court. This is an attempt to avoid one of many serious consequences that could occur should the courts be forced to close.

The requested amendments are consistent with those recommended by the Judicial Council Civil Code Advisory Committee in its revisions to Chapter 60, which have been requested for introduction this session. The language of HB 2364 is also similar to language used in the federal Code of Civil Procedure, which addresses "inaccessibility of the clerk's office."

Thank you, and I would be happy to stand for any questions.

Senate Judiciary

3-2-10

Attachment 3

**Senate Judiciary Committee  
House Bill 2418  
Comments by Doug Louis  
Conservation Division, Kansas Corporation Commission  
March 2, 2010**

Chairman Owens and members of the Senate Judiciary Committee, I am Doug Louis, Director of the KCC Conservation Division. I am here today to testify on HB 2418.

Background

As directed by the 2007 Legislature in HB 2419, the KCC drafted Rules and Regulations on Carbon Sequestration. The KCC began the process in the summer of 2007 with a group composed of KCC Staff, KDHE Staff, KGS Staff, EPA Region 7 Staff and Industry. At the same time, the group tracked EPA CO2 regulation proposals, the Interstate Oil and Gas Compact Commission's CO2 Sequestration Model Regulations and the concerns in other states regarding CO2 storage. The main areas the regulations cover are: Site selection criteria, design and development, operation criteria, casing requirements, monitoring and measurement requirements, safety requirements, closure and abandonment requirements, financial assurance and long-term monitoring.

Rule and Regulation Development

After staff presented the regulations to the Commission, a series of open meetings were held to discuss specific aspects of the regulations. One aspect which was discussed in detail, and is pertinent to HB 2418, was long-term liability of CO2 post-closure sites. The Commission directed staff to draft regulations which would not transfer liability to the State. On January 20, 2010, the Commission voted to adopt the regulations, causing the regulations to become effective on February 25, 2010.

Comment on HB 2418

The proposed changes to 55-1636 and 55-1637 clearly limits the state assuming liability, but allows the KCC to remediate a situation in an emergency when there is no viable operator.

Thank you for this opportunity to provide comment and if the Committee has questions I will be happy to answer them.

STATE OF KANSAS



TOPEKA

HOUSE OF  
REPRESENTATIVES

CARL DEAN HOLMES

REPRESENTATIVE, 125<sup>TH</sup> DISTRICT  
SEWARD COUNTY

LIBERAL ADDRESS

P.O. BOX 2288  
LIBERAL, KANSAS 67905  
(620) 624-7361

TOPEKA ADDRESS

STATE CAPITOL, ROOM 174-W  
TOPEKA, KANSAS 66612  
(785) 296-7670

COMMITTEE ASSIGNMENTS

ENERGY AND UTILITIES (CHAIR)  
AGRICULTURE & NATURAL RESOURCES BUDGET  
COMMITTEE  
JOINT COMMITTEE ON ADMINISTRATIVE  
RULES AND REGULATIONS (Vice CHAIR)  
KANSAS ELECTRIC TRANSMISSION AUTHORITY (CHAIR)  
JOINT COMMITTEE ON ENERGY AND ENVIRONMENTAL  
POLICY (Vice Chair)  
e-mail: repcarl@aol.com

LEGISLATIVE HOTLINE  
1-800-432-3924

March 2, 2010

HB2418

Chairman Owens, and committee members, I appreciate the opportunity to present information concerning HB2418.

HB2418 clears up a disagreement that developed over HB2419, passed during the 2007 legislative session. HB2419 authorized the Kansas Corporation Commission (KCC) to regulate carbon dioxide sequestration. The disagreement concerns the State of Kansas taking liability for the storage of carbon dioxide underground. My intent in developing this legislation in 2007 included the State of Kansas not taking liability for the storage of carbon dioxide. The KCC took the position the State of Kansas would take responsibility for the carbon dioxide after a period of time, when they developed the administrative rules and regulations. The Joint Committee on Administrative Rules and Regulations, during their hearing process, recommended the state not take liability for the storage of carbon dioxide. The KCC agreed to adopt rules and regulations without the liability issue being addressed, so the legislature could amend and clarify this issue during the 2010 legislative session.

The 2007 act did not clearly state my position concerning state liability. HB2418 clearly corrects that problem. The rules and regulation committee had legislative staff draft HB2418 to remedy the problem. Subsection (h) on page 2 of the bill is designed to correct the problem. I'm not an attorney and would support any changes that do not change the intent of HB2418.

My concern is the long-term liability to the State of Kansas. I conducted hearings after the natural gas explosions in Hutchinson. It was apparent that Kansas did not have laws and rules and regulations in place before the accident to have prevented that situation. They are in place today. At the current time, I am not aware of any commercial disposal of carbon dioxide underground in Kansas; however, I know of a couple of proposed projects in the near future. To my knowledge, only one state will take liability for carbon dioxide as a result of a federal grant for a coal gasification project in their state.

At this time, I would like to mention another situation, which needs to be addressed in the near future. In the storage of carbon dioxide underground, who owns the pore space for its storage; the surface owner or the mineral owner of the property? I suggest either an interim Judiciary committee or the Joint Committee on Energy and Environmental Policy study this topic.

I thank the committee for the opportunity to explain my reasoning for this legislation, ask for your support of the legislation, and will try to answer your questions.

Senate Judiciary  
3-2-10  
Attachment 5



TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIR: HEALTH AND HUMAN SERVICES

MEMBER: APPROPRIATIONS  
SOCIAL SERVICE BUDGET

J. DAVID CRUM  
STATE REPRESENTATIVE, DISTRICT 77  
2903 LAKESHORE DR.  
AUGUSTA, KS 67010  
(316) 775-6826

STATE CAPITOL  
TOPEKA, KS 66612  
785-296-6014  
1-800-432-3924

February 23, 2010

Testimony before the Senate Judiciary Committee

1. **HB 2582** would amend the sentencing guidelines statute (21-4704) regarding punishment for burglary when the defendant has a prior conviction for burglary.
2. The change in law would add “attempt or conspiracy to commit burglary or a second conviction of attempting or conspiring to commit burglary”.

Attempt is defined in law as, “any overt act toward the perpetration of a crime done by a person who intends to commit such a crime but fails in the perpetration there of or is prevented or interceded in executing such crime”.

A conspiracy is defined in law as, “an agreement with another person to commit a crime or to assist in committing a crime”.

At the present time if a person is convicted of a second burglary against a residence the sentence is presumptive imprisonment.

3. This bill was brought forward because of a considerable increase in property crime in rural Butler County. I suspect that the problem is not exclusive to Butler County.

With the current sentencing guideline a first conviction of burglary results in presumptive probation. This provision of law has encouraged criminals to burglarize homes in rural areas where there is less chance of apprehension and, when caught a good chance of probation.

Passage of **HB 2582** would still require a second conviction for burglary to result in prison time but make an incremental change that would expand the law thus giving prosecutors a greater ability to obtain that second conviction for burglary.

The goal of **HB 2582** is to raise the ante for property crime in an attempt to discourage this activity.

Senate Judiciary

3-2-10

Attachment 6

Corrections Committee Hearing  
February 10<sup>th</sup>, 2010  
Room 144S, State Capital Bldg.  
Topeka, Kansas

Testimony of Sheriff Craig Murphy  
Butler County, Kansas

From January 2007 through December 2009, Butler County, Kansas Sheriff Deputies worked forty two burglary and thefts in a centralized area of Butler County. These crimes also included the theft of eight head of cattle. Sheriff Deputies did identify a group of six individuals responsible for these crimes. It was also learned that other crimes of this nature were occurring in Butler County (outside of this locale), have been perpetrated by other individuals who are familiar and at times associate with the identified six.

During the investigation (which continues today), investigators have learned that property stolen is being transferred to counties southeast of Butler County. In the case of the cattle they were found at the sale barn in Newkirk Oklahoma. Two people were charged with the theft of the cattle.

In the matter of the forty two burglary and thefts by the group of six, we have become aware that some of the six would be eligible for probation while we know they were involved in forty two burglaries/thefts. Due to not being an Attorney and not being in that mode, it is my understanding from the prosecutor, eligibility for probation has to do with time factors involving the burglary/thefts. The time factors apparently have to do with "sentencing guidelines" that the Judges go by.

What has become apparent to Law Enforcement and the victim citizens is the fact that "sentencing guidelines" leave room for manipulation of a harsh enough sentence to remove the desire and knowledge that burglary/theft is a profitable business. It is a fact in south central Kansas that when perpetrators of this type crime are apprehended, Law Enforcement will connect the perpetrator/s from not only one crime, but to a multitude of the same type crimes. The known attitude of the perpetrator/s is "Oh well, big deal, I will get probation" and the minute they bond out and hit the streets they steal to pay their Attorney and bondsmen.

Consequently, because of the "sentencing guidelines" and the attitude, I have a victim (business owner) who lives with fear of being forced out of his livelihood due to threat of being uninsurable. This does not mention the trauma/anguish to the other victims. The group of six responsible for this victims losses continue to run amok today due to the fact no meaningful consequences have been imposed in favor of victims.

When the victims started confronting the system, I was approached that due to the lack of prosecution, vigilantism was being talked. It was a veiled accusation that we had not done our jobs. That is incorrect. My officers did their jobs. They worked the crimes, gathered the evidence, identified the perpetrators, wrote the reports, prepared 64

Senate Judiciary

3-2-10

Attachment 7

affidavits, and forwarded all information to the prosecutors, only to find out that due to the way the laws are written, this group has perpetrators who would qualify for probation. Probation means nothing to the criminal element.

It is time for "meaningful consequences" to be put in our laws. I understand budgeting. Law Enforcement and Corrections is expensive. You and we understand this. We need to ask ourselves why it is expensive. The answer is really pretty simple. We have adopted laws or tinkered with laws that benefit the criminal element, not the honest hardworking citizen. We cannot deter nor correct crime without meaningful consequences. We have literally reduced penalties for crime down to "Oh well". Burglary/theft should not be a profitable business for those who don't want to do honest work.

Sheriff Craig Murphy



Jerry A. Maier  
9892 SW Hodges Rd.  
Augusta, Kansas 67010-8214  
(O) 316-775-6954  
(M) 316-650-3595  
e-mail - jermire58@yahoo.com

February 9, 2010

Representative Crum:

First of all, thanks for the invitation to testify at the hearing on amendments to HB 2582. As you know in our recent conversations, I am very dissatisfied with our legal system when it comes to the arrest, conviction and subsequent sentencing of convicted felons.

As a law abiding citizen and self-employed business owner, I feel that at this point it is up to me to protect my property from the persons that may attempt to drive me out of business. My insurance company will allow only so many theft claims until I am dropped. I have installed a monitored security system that calls my cell phone if a breach occurs. Nightly, I hope and pray that I do not get a call from my security company. If I do get a call, I feel that it is my right to defend my property that I have worked hard for and pay taxes on with whatever means that I deem necessary given the situation that I am given. I pray that I am never put in this situation.

I do not believe that current state laws regarding crime and the subsequent punishment were originally set up to favor the criminal. But, somehow through the years a trend toward protection of human rights has allowed a steady decline in penalties for convicted criminals.

I realize that the state of Kansas is in a financial crunch at this time and that person on person crimes seem to be top priority when it comes to making bed space for convicted criminals. I agree that person on person crimes should have higher precedence when it comes to sentencing and punishment. However, something has to be done to get control of the theft ring that is active in my area of Butler County and probably across the entire state. A complete lack of confidence in our legal system exists and dissention is growing.

My plight at this time is the lack of any kind of hope that these people that habitually commit crimes of theft (in my case) are going to get any kind of jail sentence or other punishment that might actually have an impact on their lifestyle choices in the future. They get probation on most 1<sup>st</sup> and 2<sup>nd</sup> convictions. I see these people out on the streets almost daily. There are four to six known thieves that live within four miles of my rural home. These people have no respect for the law or other people's property. They know that if caught, just a slap on the hand is the consequence. The rewards are well worth the risk of being caught and convicted. It has become a very profitable way to make a living.

The laws on the books and the sentencing guidelines in the state of Kansas completely stifle law enforcement personnel and prosecuting attorneys. I firmly believe that Kansas should be proactive and consider a complete do-over of the system.

Senate Judiciary

3-2-10

Attachment 8

I am not the type of person to just complain about a problem and dump it off on someone else to rectify. It is my God given American duty to try and help with a solution. The crime problem is not going to be an easy or quick fix. We must all work together to come up with a starting point and work together to come up with a long term solution - one with teethe. If it means Kansas setting the benchmark nationally for new crime and punishment legislation, so be it. Someone needs to act and act soon.

The following outline is some of my thoughts as well as ideas from other Kansans on what steps could be taken to reduce the chances of criminal behavior tendencies and possible consequences of such behavior. As we all know, education is at the forefront of most long term solutions.

- Teach basic crime and punishment in our elementary schools. Children need to know at an early age that there are laws in place to protect them and their neighbor. Breaches of these laws on their part mean that consequences exist and will be enforced for such behavior - not just after they reach a certain age.
- The need for technical training facilities at our local high schools to ensure that the students that don't go to college and come away with a bachelors degree can at least have the opportunity to get exposure to numerous industry trade skills that would potentially make them employable after leaving high school. It continues to amaze me that only 24 to 26 percent of all Kansas high school graduates that attend a four year college come away with a bachelor's degree of some kind. What is happening to the high school graduates that don't attend college? I have not met any resistance when proposing the addition of vocational technical training facilities at every district high school in Kansas.
- Persons convicted of a first offense non person on person crime should be required as part of probation to pursue and achieve at least a high school equivalency diploma before probation period is exhausted.
- Non violent offenders need to be out working within the community on a daily basis. Many projects can be undertaken and accomplished with minimal supervision. Credit toward sentence reduction can be awarded. One foul up and you go back to day one length of sentence and still have to go out and work. These people have skills and if given the chance could prove to be future assets. Meaningful, hard work also will take away ones tendency to be a problem.

Sincerely,

Jerry A. Maier

2582

Priville Carver  
11947 S.W. Santa Fe Lake Road  
Augusta, Kansas 67010 Tele #316 775-7171

Home break ins

S.W. 120<sup>th</sup> Rd.

From the house they stole TV and microwave  
from the garage lawn mower and tools

S.W. 120<sup>th</sup> Rd

Kicked in two doors ransack the house,  
stole money, jewelry, 2 way radio and  
portable saw.

South Diamond Rd.

Man knock at the door wanted to know if their truck  
was for sale. Lady of the house said she didn't  
know. She told him she was needing to leave and  
that he could come back later. When she came  
home the house had been broken into. It had  
been ransacked, several items were stolen including  
guns, jewelry, money and etc.

Other items stolen

S.W. 110<sup>th</sup>

Broke the lock on the gate and stole a trailer  
with welder on it

S.W. 110<sup>th</sup>

Items were stolen from their barn  
and all their fire wood.

S.E. 50<sup>th</sup> Rd

Stock panels were stolen out of a pasture.  
The gate was locked.

S.E. 50<sup>th</sup> Rd.

We had seven head of registered Cattle  
stolen from our pasture.

Two head were recovered in Okla.  
that had been sold through a sale barn.  
But to get them back we had to buy them.

These are some of the cases that has  
taken place in our neighborhood.