

CITY OF DRY RIDGE RESOLUTION NO. #4-2008


AUTHORIZING RESOLUTION OF THE CITY OF DRY RIDGE, GRANT COUNTY, KENTUCKY, PROVIDING FOR AND MANDATING THAT THE CITY'S 2007-2008 POLICE POLICIES & PROCEDURES MANUAL/PLAN CONTAIN AND SET FORTH THEREIN POLICE POLICIES AND PROCEDURES, INTER ALIA, CONCERNING AND DIRECTED TO (1) BIASED-BASED POLICING AND (2) DOMESTIC VIOLENCE, ADULT AND CHILD ABUSE AND NEGLECT POLICING.

WHEREAS, the City of Dry Ridge, Grant County, Kentucky, a Kentucky city and municipal entity of the fifth-class has heretofore established and maintained a law enforcement and safety division/department known as the City of Dry Ridge Police Department which it has recently reestablished and re-instituted by actions official including the adoption of a personnel policies and procedures manual and plan covering all city officers and personnel including police offices and personnel; and

WHEREAS, the City Council of the City of Dry Ridge, Grant County, Kentucky, for and on behalf of the City of Dry Ridge, Grant County, Kentucky, and the City's police department (The City of Dry Ridge Police Department) and its officers and personnel hereby provides that the city's personnel policies and procedures manual/plan at those sections concerning the city's police officers and police department personnel be so amended to include provisions covering and concerning (1) biased-based policing and (2) domestic violence, adult and child abuse and neglect policing matters and activities.

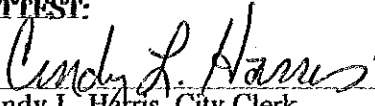
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DRY RIDGE, KENTUCKY, that the city's 2007-2008 Personnel Policies and Procedures Manual/Plan within therein at those sections concerning the city's police officers and police department personnel be so amended therein to include provisions concerning (1) biased-based policing and (2) domestic violence, adult and child abuse and neglect policing matters and activities as set forth within the attachment hereto which is adopted and established as the text of the personnel and procedures manual and plan official for the city's police department's officers and personnel germane to and concerning (1) biased-based policing and (2) domestic violence, adult and child abuse and neglect policing matters and activities.

Resolved this the Fourteenth day of April, 2008, by the City Council of the City of Dry Ridge, Kentucky, upon due Motion, Second, and Vote affirmative and in the majority at a Special Meeting of even date called and had.



Clay Crupper, Mayor
City of Dry Ridge, Kentucky

ATTEST:



Cindy L. Harris, City Clerk
City of Dry Ridge, Kentucky

Policy: The purpose of this policy is to prohibit the use of race, ethnicity, gender, or national origin as a reason to restrict liberty, or exercise any other police power upon an individual, except in those cases where one of the classifications above is a descriptive factor concerning a suspect. The policy of this department is to respect the rights of all persons who officers come into contact with during any law enforcement operation. This procedure shall apply to all Dry Ridge Police personnel, effective March 31, 2008 until such time as it is superseded, revoked or rescinded.

Definitions:

Biased-Based Policing-using race, ethnicity, gender or national origin as a reason to restrict a person's liberty where race, ethnicity, gender or national origin is not a descriptive factor relating to a suspected criminal event.

Procedure:

- A. All contacts made by members of this agency with any person must meet the requirements of the United States and Kentucky Constitutions.
- B. Preventing Perception of Bias:
 - 1. Officers should act with courtesy and professionalism on all stops and contacts.
 - 2. At the outset of a contact, where feasible, officers should introduce themselves and inform the person of the reason for the stop. This introduction is not required where the introduction would compromise the safety of the officer or any other person.
 - 3. Officers should continue the contact for only that time which is necessary to meet the objectives of that which justified the stop to begin with. i.e. if the stop is for a traffic violation, officers should not prolong the stop beyond the time it takes to write a citation. Where reasonable delays occur, the officer should keep the person informed of the reason for the delay.
 - 4. Officers should answer questions posed by the persons stopped to the extent that is possible.
 - 5. Provide his or her name and identification number when requested.
- C. Complaints regarding bias: All complaints regarding bias, as defined by this policy shall be handled in accordance with the Grievance Policy of the City of Dry Ridge.
- D. The agency shall conduct training for all personnel on this policy.

Domestic Violence, Adult and Child Abuse and Neglect

Policy:

The purpose of this policy is to clarify the police officer's authority and responsibility in domestic violence cases, in accordance with established constitutional and statutory standards, and to reduce the incidents and severity of domestic violence crime in Dry Ridge. This policy will apply to all Dry Ridge Police personnel, effective March 31, 2008, until such time as it is superseded, revoked or rescinded.

Statement of Policy

1. The Dry Ridge Police Department recognized domestic violence as a crime, giving such calls a high priority response.
2. It is the policy of the Dry Ridge Police Department that arrest is the preferred response to domestic violence crime when consistent with state law. This department will actively utilize the arrest powers granted by K.R.S. when the elements of an offense, including Violation of a Protective Order, are present.
3. It is the policy of the Dry Ridge Police Department to report all known or suspected cases of domestic violence and abuse, adult and child, to the Cabinet for Families and Children, Department for Social Services within forty-eight hours regardless of whether or not an arrest is made or a complaint taken. The JC-3 form will be completed and designated copies forwarded to the Department for Social Services.
4. It is the policy of the Dry Ridge Police Department to respond with the same protection and sanctions for every domestic violence incident including cases involving law enforcement officer, public officials and prominent citizens.
5. It is the policy of the Dry Ridge Police Department that all police officers of this department shall be required to complete the mandatory K.L.E.C. approved training in domestic violence issues.

Definitions:

Domestic Violence and Abuse

Domestic Violence and Abuse means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple.

Family Member

Family Member means a spouse, former spouse, parent, child, stepchild or other persons related by blood or marriage within the second degree. Warrantless arrest also specifies grandparent (K.R.S. 431.005(2)).

Member of an Unmarried Couple

Member of an Unmarried Couple means each member of an unmarried couple, which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who is living together or has formerly lived together.

Adult / Spouse Abuse or Neglect

Adult / Spouse Abuse or Neglect means the infliction of physical pain, injury or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult or a situation in which an adult, living alone, is unable to provide or obtain for himself / herself the services which are necessary to maintain his / her health or welfare, or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his / her spouse.

Exploitation

Exploitation means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person.

Child Abuse, Neglect or Exploitation

Child Abuse, Neglect or Exploitation means a child whose health or welfare is harmed or threatened with harm when his / her parent, guardian or other person exercising custodial control or supervision of the child, inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child, creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his / her religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child.

Stalking

Stalking means an intentional course of conduct directed at a specific person(s), which seriously alarms, annoys, intimidates or harasses; which serves no legitimate purpose; and which would cause a reasonable person to suffer substantial mental distress. "Course of conduct" means a pattern of conduct composed of two or more acts, evidencing a continuity of purpose.

The stalking statute has been amended, so that stalking is elevated from a misdemeanor to a felony when (a) a protective order has been issued to protect the victim, (b) a criminal complaint is currently pending by the victim against the defendant and the defendant has received notice of such, (c) the defendant has been convicted, within the last five years, of a felony or a Class A misdemeanor concerning the victim, (d) or the stalking was committed while the defendant has a deadly weapon. KRS 508.140. "Protective order" is defined to include EPO's, DVO's, foreign protective orders, pre-trial release conditions under KRS 431.064, and any condition of bond, conditional release, probation, parole or pre-trial diversion order designed to protect the victim from the offender. KRS 508.130.

Domestic Violence Call

Domestic Violence Call means a call where a family member or member of an unmarried couple is alleged to be the victim of:

- 1) Physical injury or in fear of imminent physical injury.
- 2) Sexual abuse.
- 3) Unlawful imprisonment or kidnapping.
- 4) Property crime.
- 5) Violation of terms or conditions of a protective order by the other party.

NOTE: These calls must be reported to the Department for Social Services and a JC-3 form completed.

Domestic Disturbance or Dispute Call

Domestic Disturbance or Dispute Call means a call involving an argument or disagreement between family members, unmarried couple, household members, or neighbors that does not indicate violence, threats of violence, or violation of court protective orders. NOTE: These calls do not need to be reported to the Department of Social Services or have a JC-3 form completed.

Victim or Complainant

Victim or Complainant means any person who is the victim of domestic violence. This includes victims who, at that time, may be reluctant to see the perpetrator arrested, unwilling to file charges, or to see the offender prosecuted.

Exigent Circumstances

Exigent Circumstances means that in response to a domestic violence call, officers may enter a dwelling without consent or a warrant when there is reasonable belief that a person within is in need of immediate aid.

No Contact

The meaning of the “no contact” conditions has been clarified by the case of *Welch v. Commonwealth*, Ky. App., 988 S.W.2d 506 (1999).

Same Sex Couples

The Kentucky Court of Appeals has held that same-sex couples are entitled to protection under the domestic violence statutes. *Ireland v. Davis*, Ky. App., 957S.W.2d 310 (1977).

Living Together

While not yet addressed in Kentucky case law, other jurisdictions have defined the “living together” requirement as broadly as possible in order to accord with the domestic violence statutes’ goal of providing protection to victims. *See, eg. Yankoskie v. Lenker*, 526 A.2d 429 (Pa. 1987).

Peace Officer

The definition of “peace officer” in KRS 431.005(3) has been expanded to include full time officers of the Division of Law Enforcement within Department of Fish and Wildlife who are exercising authority under Chapter 235 and full time university safety and security officer appointed pursuant to KRS 164.950 to 164.970.

Procedure:

A. General Duties

1. When responding to domestic violence calls general responsibilities include: (a) to respond promptly to the call; (b) establish control; (c) assess the situation for risks to all parties; (d) attend to any emergency medical needs for those involved and call for appropriate assistance; (e) interview parties / witnesses; (f) effect an arrest of the alleged perpetrator if legally

possible; (g) inform the victim of rights; (h) offer victim information on legal remedies and community services available for protection; (I) assist victim in securing legal protection (warrant, protective order) and medical attention; (j) report incident to the Cabinet for Families and Children, Department for Social Services; (k) collect evidence; (l) attend to any children or dependant adults and contact appropriate resources to attend to same.

B. Response:

1. If possible two police officers will respond to all calls of domestic violence or domestic abuse.
 2. Officers will adhere to the Dry Ridge Police policy on emergency vehicle operation.
 3. Determine and verify the existence and status of warrants and protective orders.
 4. Conduct an assessment of the premises from outside to gather additional information about the situation prior to making their presence known.
 5. Exercise officer safety tactics throughout the incident.
 6. Identify themselves as police officers, give an explanation as to why you are there and ask for entry into the house. If entry is refused, officers should again request entry and explain that they desire only to determine if any injured persons are inside. If entry is again refused and the officers have a reasonable belief that a person inside the premises is in need of immediate aid, the officers may make an entry without permission and conduct a limited search for injured persons. The search may only be conducted in those areas that a person may be found. Prior to making entry without permission, the officers will first notify the shift O.I.C. of their intentions.
- C. Once inside, establish control, separate the parties, assess the need for and obtain emergency medical treatment.
1. Interview parties separately concerning the circumstances of the incident.
 2. Determine if any witnesses, including children, are available for statements.

3. Arrange for service of any outstanding emergency protective orders or summons. When there is an outstanding E.P.O., the officer shall make every attempt to serve the E.P.O. The officer shall check his / her mobile data terminal for any outstanding emergency protective orders or summons. If one is located, the officer should print the protective order or summons out via the in-car printer, personally explain in detail to all parties involved every condition of the emergency protective order or summons. Once the officer is satisfied that the respondent has been completely informed of the details and conditions of the emergency protective order or summons, then the officer is to sign and date the print out. Dispatch is to be informed over the main radio that the respondent was officially served. The respondent is to be given a signed and dated print out of the protective order. The officer shall print out a second copy, sign and date it, and then post in the Roll Call for all to see and read. Actions taken that are stated in this subsection shall be noted on the JC-3 form.

D. Special Circumstances:

1. The victim is a child (under 18 years of age) and there are reasonable grounds to believe that the child is in danger of imminent death or serious physical danger or is being sexually abused and that the parents or other persons exercising custodial control or supervision is unable or unwilling to protect the child, the child may be taken into protective custody and removed from the home without a warrant. Prior to removing the child from the home, the O.I.C. and Cabinet of Families and Children should be notified. The day number for C.F.C. is 824-4471. After 1630 hours, the phone number is 428-4471. The procedures for emergency removal of a child without a warrant are as follows:
 - a. Contact C.F.C. and shift O.I.C.
 - b. The removing officer shall transport or cause the child to be transported to a medical facility if medical attention is needed.
 - c. Completes a Juvenile Complaint Form, AOC-JV-1, for each child to be removed. Facts identifying the child as being delinquent or dependent must be stated on this form. The document must be signed in the presence of a judge.
 - d. Two copies of the form titled "Notice of Emergency Removal" shall be completed by the removing officer. One copy shall be given to the parents / guardians of the child or left in a conspicuous place if the parents / guardians are not at home.

- e. The removing officer shall complete the top portion of a Juvenile Emergency Custody Order, AOC-JV-22, and have the form signed by a judge within twelve hours.
 - f. Complete a Form JC-3.
 - g. Complete an Dry Ridge Police Report stating facts of the case and where the child was placed.
 - h. Contact C.F.C. for placement of all children under the age of eighteen (18).
 - i. The AOC-JV-22 and AOC-JV-1 forms must be signed by a judge within twelve hours of the removal of the child. If the removal is made twelve hours before the next regularly scheduled session of juvenile court is to be held, the removing officer will contact the juvenile court judge through Pre-trial Services and deliver said forms to the judge for his / her signature.
 - j. The court will issue a date for a custody hearing to be held no later than 72 hours after the removal of the child. The removing officer shall make or arrange for the notification of said hearing to the child's parents / guardians.
2. If the abused person is a dependent adult and the threat as defined in the statute still exists, then an emergency referral to the Cabinet for Families and Children shall be made.
- a. A dependent adult is defined as a person eighteen years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his / her own resources, carry out the activities of daily living, or protect himself / herself from neglect, hazardous or abusive situations without assistance of others and may be in need of protective services.
 - b. If the person is in need of medical attention, E.M.S. should be notified.
3. Emergency Protective and Domestic Violence Orders:
- a. Persons violating the terms of a valid Emergency Protective Order (EPO) or Domestic Violence Order (DVO) shall be arrested when:

- 1) They commit a violation of the order in the officer's presence after personal service of the order or after proper oral notice of the existence and terms of the order by a peace officer, or
- 2) When the violation did not occur in the officer's presence and probable cause exists to believe that a violation has occurred and the violator had prior personal service or proper oral notice of the existence of the order and its terms.
- 3) A warrantless probable cause arrest shall be made under the circumstances set forth in a.2. above when the violator is located in the immediate vicinity and in a public place.
 - (a) If located in a private premise or dwelling, an appropriate warrant (s) must be obtained in order to effect an arrest.
- 4) When an arrest is made under the conditions set forth in a.1., a.2. or a.3., the charge will be VIOLATION OF A PROTECTIVE ORDER, K.R.S. 403.763.
- 5) Pre-trial release conditions, issued pursuant to K.R.S. 431.064 for defendants charged with violation of Chapter 508 and 510 are now required to be entered into the Pre-trial release conditions, issued pursuant to K.R.S. 431.064 for defendants charged with violation of Chapter 508 and 510 are now required to be entered into the computer system of the Administrative Officer of the Courts and from there be accessible to LINK terminal agencies. KRS 431.064.

b. Foreign Protective Order (FPO)

1) General:

- (a) All out of state protective orders will be enforced as written, including provisions which grant relief not available in Kentucky.
- (b) All Foreign Protective Orders are presumed valid upon presentation to the law enforcement officer. Foreign Protective Orders do not have to be entered into the LINK system to be valid and enforceable.

(c) Some Foreign Protective Orders may have been filed of record, and may be verified through LINK.

c. Arrest Procedures:

1) When a Foreign Protective Order is presented to the law enforcement officer by the complainant the officer will:

(a) Determine whether the order is current

(b) Determine whether the conduct complained of is prohibited by the order.

NOTE: For different reasons some Foreign Protective Orders do not have expiration dates on them. Even though no expiration date is contained on the order, the officer will accept the statement (written or oral) of the complainant, that the order is current.

2) The officer will inquire of the complainant, whether the Protective Order has been filed with the Circuit Clerk's office. If the order has been filed with the Clerk's office it can be further verified through the LINK system.

NOTE: Even if the order has not been filed with the Court Clerk, and is not available on LINK, it is still a valid order of protection as long as step one (1) is completed.

3) The officer will assume that the respondent was given notice of a Domestic Violence Order and its contents.

4) If the officer has probable cause to believe the respondent has violated the terms of the protective order, he will arrest the respondent for violating a protective order, he will arrest the respondent for violating a protective order. **K.R.S. 403.763**

5) All peace officers will make arrests for a violation of a Foreign Protective Order, in the same manner as a violation of an Emergency Protective Order or Domestic Violence Order, as if it had been entered by a Kentucky Court. The charge will be a Violation of a Protection Order.

- NOTES:**
- (a) This will not preclude officers from arresting the perpetrator for other violations of Kentucky law.
 - (b) Law enforcement officers are not expected to be aware of any changes in a Foreign Protective Order that are not clearly on the order itself, or, if the order is in LINK, if the changes are not indicated in LINK.
 - (c) It is the obligation of the victim to notify the court of changes in the order.

4. Officers may arrest persons for Assault 4th degree when the officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member, or a party of an unmarried couple.
 - a. The term "Domestic Violence" will be clearly marked in the description portion of the citation.

5. When a Domestic Violence Crime has been committed, and the officer is unable to establish probable cause for a warrantless arrest under the provisions described, or is unable to arrest the alleged perpetrator, the officer shall advise the victim about Emergency Protective Orders. If the victim desires an E.P.O. be issued, the officers shall assist him / her in obtaining same. The steps to obtain an E.P.O. are as follows.
 - a. The victim will complete both pages of the Domestic Violence Petition and sign page two. The on-scene officer must verify the petition's contents and victim's signature.
 - b. After hours, the officer shall contact Pre-trial Services for notification to the on-call judge that an E.P.O. has been requested.
 - c. The officer will take the signed and verified petition to the on-call judge for review and, if merited, the issuance of an Emergency Protective Order. If court is in session, the officer may refer the victim to the Pre-trial Services for review and issuance of an E.P.O. If the victim has no method of transportation to the Justice Center to obtain an E.P.O., the officer shall arrange for same or transport the victim himself.
 - d. Six copies of the petition will be needed and disseminated to the following:
 - 1) Original to the judge for filing.

- 2) Copy to the alleged perpetrator.
 - 3) Copy to Clerk showing service.
 - 4) Copy to victim.
 - 5) Copy to officer.
 - 6) Copy to the Grant County Communications Center for entry into LINK.
- e. The victim will be informed by the officer that the order has been signed, entered into the LINK system and that a copy is available to her / him.
- f. The officer will attempt to serve a copy of the E.P.O. and petition upon the alleged perpetrator. If this is not possible, the officer shall attempt to give notice of the existence and terms of the order to the alleged perpetrator. The time and place of service or notice will be set out on the order. A copy of the order will then be faxed to the
- 1) Grant County Communications Center at 428-1212
 - 2) Grant District Court at 823-4471
- g. If the officer is unable to serve the alleged perpetrator with a copy of the order then a copy of the petition will be faxed to the Sheriff's department for personal service. The officer will indicate on the order that he / she was unable to make service on the perpetrator.
- h. After an arrest has been affected in a domestic situation, the arresting officer will complete the necessary reports. A copy of the JC-3 Form shall be left with the Uniform Citation at the jail. It should be noted that it is not necessary for the victim to sign the JC-3 Form as a condition for effective an arrest. However, the victim should be encouraged to sign the narrative section of the report in order to strengthen prosecution of the case. The original shall be filed at the Police Department with a copy forwarded to the Cabinet for Families and Children within 48 hours. The officer shall utilize the E-JC3 Form whenever possible. The form shall be submitted by the officer prior to the end of his / her tour of duty. A hard copy shall be printed and attached to the UOR for official review.

- i. When an officer has probable cause to believe that the accused has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple, and that the accused still presents a danger or threat of danger to others if not immediately restrained, despite the fact that the accused has fled the scene, a warrantless arrest for 4th degree assault would be justified. In such cases, the responding officers will broadcast an attempt to locate for the accused and make a reasonable attempt to locate same.
- j. Whether or not an arrest has been made and the officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence, the officer shall use all reasonable means necessary to prevent further domestic violence, including, but not limited to:
 1. Remain on the scene as long as the officer reasonably suspects there is a danger to the physical safety of the individuals present without the presence of an officer.
 2. Assist the victim to obtain medical treatment, including offering to transport, or arrange for transportation, of the victim to the nearest medical treatment facility capable of providing the necessary treatment.
 3. Advise the victim(s) of rights and services available to them. These rights and services include information about criminal complaint procedures, availability and enforcement of civil protective order, availability of emergency shelters and other community resources. In all cases, the officer shall distribute the rights information sheet from the JC-3 Form to the victim. This information form may be printed from the E-JC3 form.
 4. Whether or not an arrest has been made, officers shall report any known or suspected domestic violence and abuse to the Cabinet for Families and Children within 48 hours. This reporting shall be done with the use of the E-JC3 Form. If there are computer problems that restrict the use of E-JC3, then the officer shall use the hand written form of the JC-3.

5. When the victim of abuse is a dependent adult or elderly person (age 60+) and the accused is a family member or member of an unmarried couple as defined in K.R.S. 431.005(2), the officer may affect a warrantless arrest, when indicated. All reporting requirements set for in this policy shall apply to such cases. If there is no one available to assist the elderly person or dependent adult, or if the elderly / dependent adult appears not to be mentally alert, the officer shall make an emergency referral to the Cabinet for Families and Children and remain on the scene until a protective services worker arrive.

k. The VINE (Victim Information and Notification Everyday) system has been expanded to include notification to domestic violence victims that the respondent has attempted to purchase a weapon in violation of the federal gun ban. Officers need to alert victims to the option of signing up with VINE.

E. Investigation

Officer shall investigate acts of domestic violence as they do other serious crimes, giving specific attention to the collection and preservation of evidence. If called upon by the County Attorney, the officer should be prepared to present a case for prosecution even though the victim may decline to do so.

F. Officers who reasonably perform their duties in good faith have immunity from civil and criminal liability under the following situations:

1. Enforcing Emergency Protective Orders or Domestic Violence Order. **K.R.S. 403.755(2)**
2. Enforcing Foreign Protective Orders. **K.R.S. 403.7529(3)**
3. Making a report of investigation for adult abuse or neglect. **K.R.S. 209.050; K.R.S. 403-.715(5)**
4. Making a report or investigation for child dependency, abuse or neglect. **K.R.S. 620.050(1); 403.715(5)**

G. The crime of Fleeing or Evading Police in the First Degree has been amended to include defendants fleeing after committing an act of domestic violence and constitutes a Class D felony. **K.R.S. 520.095**

H. Since 1992, federal law has prohibited certain domestic violence offenders from possession a weapon. Currently, state legislation provides that "designated law enforcement agencies" shall make "reasonable efforts" to provide victims with notice that a perpetrator has attempted to purchase a firearm in violation of the federal gun ban. K.R.S. 237.095