

## USE OF DEADLY FORCE

### AS A UNIVERSAL CONCEPT

by Joe Kalil

First and foremost, being armed is no mandate to act with bravado. On the contrary, it carries with it a moral and ethical obligation to avoid confrontations when at all possible. If a confrontation is unavoidable, then the armed citizen has an obligation to do whatever is reasonable to try to de-escalate the situation. The rule is to be non-confrontational. Behave politely and non-aggressively.

You are universally justified in the *necessary* use of deadly force when you have a *reasonable* fear of *immediate* or otherwise *unavoidable* danger of *death* or *serious bodily injury* to the *innocent*. Note that ALL of these factors must be present in the situation. The language and interpretation can vary substantially between countries, states and, sometimes even between various local jurisdictions within a state.

**Carefully consider these Key Words** included in the previous statement.

*Necessary* – Unavoidably determined by prior conditions or circumstances. Absolutely essential.

*Reasonable* – That which a sensible person (or 12 of your peers!) with the same information and facing the same circumstances as you, would recognize as rational and normal.

*Immediate* – Occurring at once, Right NOW! (Kentucky Statutes regarding deadly force use the term “imminent”, which means about to occur or impending, rather than immediate. This is somewhat less demanding language but keep in mind that the use of deadly force in the face of “imminent” danger of death or serious bodily injury is not necessarily within universally accepted standards outside of Kentucky).

*Unavoidable* – If you can avoid the lethal confrontation by breaking contact with your assailant and retreating to cover, you should, and in some areas of the country, you must. KY does not have such a requirement and a recent amendment to the KRS specifies, “A person does not have a duty to retreat if the person is in a place where he or she has a right to be.”

*Death* – Loss of life.

*Serious Bodily Injury* – Any injury that cripples, permanently disfigures, or could cause death within minutes, hours, days, weeks, or months. Temporary cosmetic injuries such

Continued on page 2

## AN ARBITRARY RESTRICTION...

### OR AN ISSUE OF HOMELAND

### SECURITY?

by James Hall

A new restriction took effect on July 12 that we weren't prepared for, even though we helped make it happen. Beginning on that date, applicants for a Kentucky license to carry a concealed deadly weapon must be a United States citizen. This new provision of our licensing law was included in House Bill 290, the *Omnibus Gun Bill of 2006*, which KC3 was very much in favor of passing. “A citizen of the United States.” It was right there near the bottom of the first page, a seemingly innocuous phrase that just didn't draw any attention to itself. In fact, it looked rather like it belonged there amongst the more obvious qualifications for obtaining a license.

What difference does it make to the average Kentuckian and why was it included? To be honest, we have yet to find an answer to either question. Preliminary inquiries have led to the

Continued on page 8



Continued from page 1

as abrasions, black eyes, swollen lips, and surface bruises are not considered serious bodily injury.

*Innocent* – Free from guilt or fault. Harmless in effect or intention. You, or the persons you are defending, must be free of fault, instigation or escalation to the immediate and otherwise unavoidable danger of death or serious bodily injury. You simply cannot incite or promote a fight, use deadly force, and then claim self-defense. You must also be very careful to keep in mind that in KY, when defending yourself you may rely on “your belief” of the situation, but when defending someone else, you are subject to the “actual facts” of the situation.

**You know that you are in reasonable fear** of immediate and otherwise unavoidable danger of death or serious bodily injury when your assailant has the *Means, Opportunity, and Intent* to do you harm.

Your assailant has the *Means* or *Ability* if he possesses the physical power to kill, cripple, or permanently disfigure through the use of superior physical strength or unarmed fighting skills, blunt weapons, edged weapons, firearms or other weapons.

Your assailant has *Opportunity* if he is capable of immediately inflicting injury by striking you at arms length with bare hands, conversational distances with blunt or edged weapons, or any reasonable range for a particular firearm.

Your assailant demonstrates *Intent* if he is *acting* or *speaking* in such a manner that any reasonable and sensible person would assume indicates his intention to kill, cripple, or permanently disfigure you.

**You must believe** that your assailant has the means, the

Continued on page 3

# President’s Message

by Jim Dixon

As this is my first opportunity to address the membership as president of Kentucky Coalition Carry Concealed, Inc., I would like to thank my colleagues in the fight to protect our rights to self-defense for their faith in my ability to lead this organization forward. These past ten years have seen several attacks on our concealed carry licensing law as well as several opportunities to make it easier for Kentuckians and visitors alike to provide for their own defense. KC3 was there on these occasions and we have helped to bring about the best legislation possible in each situation. This organization’s commitment to having the finest concealed carry law in the country, as well as stringent legal and civil protections for those individuals engaging in justifiable self-defense, will continue.

Regrettably, we have recently experienced the passing of a staunch defender of these rights we hold dear. Shelby Riggs died on September 24, 2006. Shelby was a veteran of WWII, receiving a Purple Heart for combat wounds and enduring five months as a prisoner of war by his German captors.

Shelby came home from the war and joined the KY Highway Patrol and went on to serve 20 years with the KY State Police, much of it as firearms instructor. He co-founded Gall’s Police Equipment in 1968 and went on to open a gun shop in Frankfort with his sons.

As one of the founders, longtime board member, and past president of Kentucky Coalition to Carry Concealed, Inc.,

Continued on page 8

## PLEASE PATRONIZE OUR SPONSORS



### BudsGunShop.Com

Check out BudsGunShop.com for some of the best deals on new handguns, rifles, shotguns, and accessories!

Browse our online inventory - updated daily!

[www.BudsGunShop.com](http://www.BudsGunShop.com)

Phone: (859) 987-9929

Email: [sales@budsgunshop.com](mailto:sales@budsgunshop.com)

Office Hours:

9am - 5pm Monday - Friday

**Bud's Indoor Shooting Range and Retail Store**

4115 Lexington Road

Paris, KY 40361

(859) 987-8261

Store and Range Hours:

9am - 7pm Monday - Friday



Kenny Woods Gun and Knife Show features 1000's of guns, rifles, pistols, shotguns, and muzzle loaders, whole sale ammunition, accessories, scopes, antique guns, and collectable knives. A great place to find something for the collector or sportsman in all of us!! Free gun appraisals; a great place to sell or trade an unwanted gun or knife to 1000's of potential buyers. [www.kennywoodsgunshow.com](http://www.kennywoodsgunshow.com)

November 4 & 5, 2006 The Center, Somerset - \$6

THREE DAYS - November 26-28, Heritage Hall, Lexington - \$7

December 2 & 3 The Center, Somerset - \$6

January 6 & 7 Heritage Hall, Lexington - \$8

Women and children under 12 free with paid admission!

Continued from page 2

opportunity, and the intent to immediately (or imminently in KY) inflict serious injury or kill you if you do not use deadly force to prevent it. As discussed earlier, **you must know this situation as fact** before using deadly force to protect another.

**How close is too close?** Studies have measured the amount of time the “average” man can present his handgun from the holster and fire a single shot to the center of mass of a human size target and compared that to the distance a man armed with a contact weapon (edged or blunt weapon) could run and inflict a fatal wound. The time is 1.5 seconds which works out to roughly 21 feet of travel. Therefore, when facing an opponent armed with a contact weapon who is 21 feet away, with nothing intervening between you and the weapon, you are in immediate danger of death or serious bodily injury. This is often referred to as the *21 foot rule*.

**Disparity of Force** is a circumstance in which deadly force would be justifiable when the assailants are not armed. Some examples might include multiple members of a gang attacking an individual; an assailant *known* to have special abilities (black belts, etc.) attacking a person without such training; a sizable man attacking a smaller woman; or a very large man attacking a small man. Of course, all of these examples are subject to interpretation and reason. The bottom line is that there are situations where unarmed assailants can employ physical force that can result in death or serious bodily injury.

**Escalation of Force** occurs when an apparently unarmed individual in a confrontation with a second apparently unarmed individual produces a weapon and escalates the conflict, therefore increasing the required force to end it. You should NOT present your weapon unless your assailant has the means, opportunity, *and* intent to kill or inflict serious bodily injury.

**In Kentucky, a person does not have a duty to retreat** if he is in a place where he has a right to be. However, retreat is often a good idea and should be exercised if it is a viable alternative and does not place you or those around you in greater danger. Regardless of the jurisdiction, retreat establishes that you did everything possible to avoid the danger before it became necessary to shoot. If you detect an emerging threat or your “sixth sense” is telling you something is wrong, depart the area for a safer location. There is no shame in running from a fight. *The best gunfight is the one you avoid!*

**Three factors** are key in determining the outcome of a gunfight: *Accuracy, Speed, and Power.*

*Accuracy* – You must hit your assailant in a vital area with well placed shots. Even if you shoot first and you are shooting a more powerful firearm, if you miss completely or hit in a non-vital area, you will not stop your assailant.

*Speed* – You must hit your assailant before you are hit. Even if you are the more accurate shooter and you are shooting a more powerful weapon, if he hits you first, you will likely lose.

*Power* – You must hit your assailant with enough power to cause enough damage to incapacitate him quickly, thus stopping the attack. Even if you shoot first and hit in a vital area, if your weapon is not of sufficient power to cause an incapacitating wound, you will not stop you assailant.

All three factors are vitally important in order to survive a deadly encounter. Speed and Accuracy are improved with knowledge, training and practice. Power is determined by the type of firearm and ammunition that you carry. A good rule of

thumb is to *carry the most powerful handgun that you can quickly and accurately shoot*. Another consideration must be choosing a handgun of a size and weight that doesn’t preclude comfortably carrying it.

**You have a duty** to understand self-defense laws, specifically, those with regard to the justifiable use of force. If you routinely carry a concealed deadly weapon for your protection, it is your responsibility to KNOW all of the relevant federal, state and local statutes and ordinances pertaining to firearms possession and the privileges and restrictions associated with a license to carry concealed deadly weapons. It is recommended that you research specific instances of self-defense shootings and their final disposition as well as how the prosecutorial conduct in the criminal courts in your district has proceeded in such situations. You may avoid making critical errors if you can discover examples of the proper actions or mistakes by others in defensive situations. You should always be wary of advice from others, *even lawyers and law enforcement officers* who do not specialize in self-defense law.

**Plan now for the aftermath of a shooting.** The act of preserving your life is more likely the beginning than the end of your problems. You may face criminal charges despite your belief that you were justified. If criminal charges are pursued, the question of whether the use of force was ultimately justified is decided by a jury. It is quite possible to have 99 out of 100 *reasonable* people agree with your actions and still end up in prison on the decision of 12 jurors. The most important fact though, is that you were able to save your own life and possibly the lives of

Continued on page 4

## PLEASE PATRONIZE OUR SPONSORS



**Over 500 Guns  
In Stock!**

**OVER 500 New and Used GUNS IN STOCK!!!!**

We trade guns and sell quality used guns

Fishing, Hunting, Archery, Guns, Footwear  
Black Powder Air Guns, Heritage Safes

On 4th In Downtown Carrollton, Kentucky

Monday-Saturday 9:00am - 5:30pm

Phone: (502 ) 732- 4005 Fax: (502) 732- 4656

Phone or Email us for fast personal attention

**For additional information feel free to email us at:  
[info@glaubersports.com](mailto:info@glaubersports.com)**

Continued from page 3

those you love.

It is a good idea to locate a self-defense attorney now and keep his contact information with you so if something happens, you will be able to start the legal process right away. Keep copies of all your licenses, insurance, and legal contacts someplace where a family member can access them.

**The BOTTOM LINE** is that the law abiding citizen should make every possible effort to avoid using deadly force. Prevention, avoidance, de-escalation, and retreat are all good alternatives allowing you a much better opportunity to maintain your freedom and return home safe to your family. Some things to remember:

- Be as reasonable and prudent as possible when dealing with a confrontation.
- Never do anything illegal or unethical, such as tampering with evidence.
- Be careful what you say to witnesses, police, medical personnel, and even family members following a confrontation. Wait until you have the advice of counsel before making any statements!

**Joe Kalil** is the newest member of the KC3 Board of Directors. Joe is a pilot and former Army officer; Certified NRA Instructor; KY, OH, UT and FL Concealed Carry Instructor; "Master" IDPA shooter; Glock armorer, and; graduate of numerous professional shooting schools. Joe owns his own company, **Defensive Handgun Training LLC** ([www.DefensiveHandgunTraining.com](http://www.DefensiveHandgunTraining.com)) and can be reached at: [JoeKalilKC3@insightbb.com](mailto:JoeKalilKC3@insightbb.com).

**DISCLAIMER:** The information in this article is of a general nature is not intended to specifically present KY laws regarding all aspects of this topic. Nothing contained in this article should be construed in any manner as legal advice and it is highly recommended that specific legal questions be presented to a qualified attorney in the proper jurisdiction.

## WELCOME TO KC3

Since 1994 KC3 has led the struggle to secure your right to carry a legally concealed weapon for your defense and the safety of your loved ones.

Starting with thousands of signatures on petitions in 1995 through the passage of HB40 in 1996 and on to the challenges in the General Assembly in 1998 and 2000, KC3 has been the leader of the effort to protect your ability to defend yourself by the best means possible, and to preserve and improve our already outstanding CCDW law. We publish a semi-quarterly newsletter and maintain a web page ([www.kc3.com](http://www.kc3.com)) filled with vital information and updates.

In addition, we monitor the events that have an effect on CCDW in Kentucky, keeping abreast of changes so that you stay informed. Our e-mail alerts list will keep you posted on the latest developments in CCDW gun rights issues.

Thanks for joining the team that brought Concealed Carry to Kentucky and for your support of the effort to preserve our rights and our freedoms! Individual memberships in KC3 are \$10 for one year or \$25 for three years. Household memberships, that's TWO adults in a single household and all dependents, are \$15 per year or \$40 for three years.

For more info on membership and self-defense issues visit:

**[www.KC3.Org](http://www.KC3.Org)**

## PLEASE PATRONIZE OUR SPONSORS



*Complete Online Reference for the M1911 Pistol*

- Featuring Products from
- Chip McCormick
- Kuhnhausen Shop Manuals
- Mil-Comm Lubricants
- High Noon Gun Leather
- Power Custom Parts and Tools

<http://www.sightm1911.com>  
502-451-4439

Traveler's Guide  
to the Firearm Laws  
of the Fifty States



**Attorney J. Scott Kappas uses case law and statutory authority to render plain English advice as to how a traveler should carry firearms while visiting states other than the traveler's own.**

*To order send check, money order,  
or credit card number to:*

**Traveler's Guide  
P.O. Box 2156**

**Covington, KY 41012**

To order by phone call: 859-647-5100  
or Fax: 859-491-5400

Please call between 9:00AM-5:00PM EST M-F

FAX orders 24hrs/7days a week

You can order secure online at

**<http://www.gunlawguide.com>**

# KC3 RAFFLE

## CURRENT EDITION

The 2007 Annual Raffle to benefit the efforts of KC3 in pursuing the best legal climate for defending yourself and your family was kicked off at our Annual Meeting of the Membership this past May. This year's object of attention is the *Springfield Armory XD-45 ACP Service Model Pistol*. The package comes complete with a picatinny rail mounted XML WhiteLight and all the standard gear including a belt holster, double mag pouch, magazine loader, two magazines, cable lock and carrying case.

This pistol has caused a mighty stir in the handgun community. It won *Handgun of the Year* from the National Rifle Association's *American Rifleman Magazine*. The accolades did not stop there as it also won *Handgun of the Year* from The Shooting Industry Academy of Excellence. This prestigious award is determined by secret ballot to manufacturers, distributors and retailers (the people who know!) in the firearms industry.

If you want to get in on the action, stop by and visit us at one of the many gun shows we attend or make plans to attend our 2007 Annual Meeting of the Membership this next May. The drawing to determine the proud new owner of this fine defensive tool will take place near the end of the meeting. A third option is to send a request for tickets, complete with your name and contact information, to: KC3 - XD45, P.O. Box 1269, Frankfort, KY 40602-1269 indicating how many tickets you would like at \$2 each or 3 for \$5. Please include a SASE if you wish to have your ticket stub(s) returned to you. Good Luck!



### *Springfield Armory XD-45 Service Model Pistol*

Caliber: .45 ACP  
 Capacity: 13 + 1  
 Barrel: 4.04"  
 Sights: Dovetail front & rear (steel)  
 Size: 30 ozs. w/ mag., 7.25" overall length  
 Trigger Pull: 5.5 to 7.7 lbs.  
 Ultra Safety Assurance (USATM) action trigger system  
 Magazines: 2 Stainless Steel 13 rd., easy glide magazines

### **Includes XML WhiteLight**

Ambidextrous Momentary / Steady On Rocker Switch  
 High Output Xenon Bulb  
 Peak Output 50 Lumens

## PLEASE PATRONIZE OUR SPONSORS



For over 25 Years we have provided the highest quality hunting products at the best possible prices.

We carry a full line of firearms, archery, muzzleloaders, optics, binoculars, holsters, reloading supplies, gun safes, tactical gear and many more lines.

We proudly carry products from the finest manufacturers in the world, and we are continually looking for new lines and innovative products. We look forward to providing you with the best products at the best possible prices.

**Thousands of In-Stock Products**  
**Ready To Ship Today!**  
**1-877-YES-GUNS**

**Gilbert's Gun Shop**  
 2282 Louisville Road  
 Frankfort, KY 40601  
 502-227-7889 Phone  
 502-227-2233 Fax

Email: [gilbertsguns@bellsouth.net](mailto:gilbertsguns@bellsouth.net)



## **Defensive Handgun Training LLC**

Providing Quality Handgun Training in Northern KY through the Following Courses:

- \* Certified KY, OH, and FL CCDW Permit Course
- \* Handgun Tactics Course
- \* NRA Pistol Course
- \* Handgun Orientation Course (for new handgun owners)
- \* Firearm Safety Course for Teenagers

**Glock Armorer Services**  
**Federally Licensed Firearms Dealer**

**Contact: Joe Kalil**  
**E-Mail: [JoeKalil\\_DHT@insightbb.com](mailto:JoeKalil_DHT@insightbb.com)**  
**[www.DefensiveHandgunTraining.com](http://www.DefensiveHandgunTraining.com)**

# Words To Live By

Laws are just collections of words that come together to form a specific meaning. If you have a working command of the English language, you can usually read the law and easily understand the meaning and intent. If you aren't sure about a specific passage, ask the official charged with enforcement to explain it. If you don't like something, get your elected representative to work to change it. Rest assured, you *will* live by the words regardless of whether you understand or dislike them. You *PAY* people to see to that!

**And these words apply to EVERYONE, even those charged with enforcing the law!**

[Emphasis added]

## Kentucky Constitution, Section One:

All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned:

First: The right of enjoying and defending their lives and liberties.

Third: The right of seeking and pursuing their safety and happiness.

Fifth: The right of acquiring and protecting property.

Seventh: **The right to bear arms in defense of themselves** and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons.

## Kentucky Revised Statute (KRS) 65.870

No city, county or urban-county government may occupy any part of the field of regulation of the transfer, ownership, possession, carrying or transportation of firearms, ammunition, or components of firearms or combination thereof.

## KRS 237.104

- (1) No person, unit of government, or governmental organization shall, during a period of disaster or emergency as specified in KRS Chapter 39A or at any other time, have the right to revoke, suspend, limit the use of, or otherwise impair the validity of the right of any person to purchase, transfer, loan, own, possess, carry, or use a firearm, firearm part, ammunition, ammunition component, or any deadly weapon or dangerous instrument.
- (2) No person, unit of government, or governmental organization shall, during a period of disaster or emergency as specified in KRS Chapter 39A or at any other time, take, seize, confiscate, or impound a firearm, firearm part, ammunition, ammunition component, or any deadly weapon or dangerous instrument from any person.

## KRS 237.115(2)

...the legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area

## Opinion of the Kentucky Attorney General, (OAG 96-39)

"A county may not ban or regulate the open or concealed carry of firearms in public parks it controls, except a fiscal court may by ordinance prohibit or limit the carrying of concealed firearms in the buildings, or portions of buildings, the county controls located in such parks."



THEN,  
WHAT IS  
THIS?  
AND THIS?

It seems that not everyone was aware of these provisions in the law. These pictures were taken earlier this summer

Continued on page 7



at Great Crossings Boat Ramp, which is maintained by the Georgetown / Scott County Parks Department. To those individuals who have chosen to arm themselves for the purpose of self-defense, especially CCDW licensees who are certified by the Commonwealth to be decent law-abiding citizens, these signs are rather offensive. It would appear from the one photo that even our feathered friends aren't to fond of them either!

KC3 did a little research and determined that Scott County is actually the entity responsible for maintaining the parks and we found several examples of these signs throughout the parks system. We then took the step of informing the Honorable George Lusby, Scott County Judge Executive, of the statutes and constitutional provisions regarding the right to bear arms and recommended that all of the offending signage be removed. According to a story in the *Georgetown News Graphic*, Judge Lusby presented our letter to the Scott County Fiscal Court at the September 8, 2006 and remarked "If it's the law, we've got to abide by it."

Kudos to Judge Lusby as he has apparently done just that! Visitors to the parks will find the stand alone signs depicting the handgun under the red slashed circle have been removed



and the *PARK RULES & REGULATIONS* no longer have a rule number 5! Unfortunately, there remains a few misunderstandings about the concept of self-defense and some of the perceptions of the previous situation.

According to the *News Graphic* article written prior to removal of the firearms prohibitions, "People may soon be able to carry guns, including concealed weapons, onto the grounds of Scott County's parks and other county-owned property." The fact is, they always could, and not just because the law was unenforceable. Even IF the county had the authority to completely ban firearms from all of the property they control, certain people would still be able to carry guns wherever they liked, ESPECIALLY if they were concealed! Of course, we generally refer to these people as CRIMINALS. The irony here is that these are

exactly the people you don't want wandering around the parks armed while the law-abiding citizen, the one you have no need to worry about, will give up his arms in order to obey the law. Locales with such a ban are now, with very good reason, commonly referred to as *Victim Disarmament Zones* or even *Criminal Empowerment Zones*. Any way you cut it, if you prevent the legal possession of arms, only those with criminal intent will be armed!

"There's no good reason to have guns in a public park, in my opinion," Judge Lusby said. Perhaps he should look to Joe Megerle of Covington for another point of view. Back in August of 1999, Mr. Megerle was walking in Kenton County's Devou Park when a man approached him, drew a pistol and demanded money while threatening his life. It seems this unlucky fellow was very unpleasantly surprised to find out that his intended victim was armed. The perpetrator of the botched robbery was later arrested upon release from the hospital.

The bottom line is that one never knows where or when he might encounter an armed thug intent on terrorizing him for his money, property or simply for the perverted pleasure of doing him harm. Predatory criminals rely on the element of surprise and overwhelming force in order to have their way with their unsuspecting victims. Parks are not exempt from the violence that is present throughout our society so why would we not allow decent people the means to defend themselves while enjoying the public land they help to maintain through their tax contribution?

There is another section of the Commonwealth's Constitution that must not be printed in the copy most government officials keep in their desk drawer. Or maybe it just stays in the desk drawer far more than it should! Section Two provides the perfect stumbling block to all those who would attempt to overstep their authority and especially those who intend to create some elitist or privileged status not available to the average citizen.

***Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.***

Deciding where and when the citizenry can exercise a fundamental right is something our founders took as their obligation to protect and the state legislatures that came after them have, for the most part, followed their lead. When local government decides to restrict our right to self-defense, we simply must challenge their actions.

***Freedom is like good health, without exercise it fades!***

**Need more information about concealed carry or related material than this newsletter is able to provide?**

**Check out our webpage at:**

**WWW.KC3.ORG**

**Or**

**WWW.KC3.COM**

**If you can't find what you are looking for, take the "contact us" link from the opening page and send a note to one of our directors and he will be glad to answer your questions or put you in touch with someone else who can.**

Shelby worked tirelessly for gun rights in Kentucky. He was often our "ace in the hole" in Frankfort. He knew who to talk to and how to talk to them in order to get things done in the legislature. He was a persuasive witness at legislative committee hearings, often able to sway opinion simply with the clarity of his reasoning and his old-school gentlemanly style.

Simply put, Shelby was a significant factor in the fight to win concealed carry legislation for the citizens of this Commonwealth. If you exercise the privilege of discreetly carrying a weapon for your own defense in KY, Shelby deserves your gratitude. His passing is deeply felt by all of us on the KC3 Board of Directors. It was truly an honor to have known him.

The 2006 KC3 Annual Meeting of the Membership was an event that will be remembered for quite some time. A record attendance helped us celebrate ten years of legal concealed carry in KY, elect the current Board of Directors, and recap the events and legislation of the previous year.

Door prizes totaling nearly one thousand dollars, including a Taurus PT-111 Millennium Pro 9MM semi-automatic pistol, provided that nobody went home empty handed. We also concluded our annual raffle and gave away a stainless Smith & Wesson Model 500 Revolver with a 4" barrel chambered for the new S&W .50 caliber magnum cartridge. The lucky winner was S. C. Moseley of Louisville. We wish him many years of enjoyment out of this fine firearm.

Congratulations to Jerry Geise on his re-election as a Director to a new three year term and also to Joe Kalil, a previous appointee by the Board of Directors to fill an empty seat, who has also been elected to a three year term. The Board of Directors met after the membership meeting and, besides my own election as president, elected the corporations' officers as follows:

- 1st Vice President - James R. Hall
- 2nd Vice President - C. Michael Stapleton
- Secretary / Treasurer - Robert Jaynes

After all the festivities were over, we announced the object of the KC3 2007 raffle. We made the choice several months before the meeting so we could make the purchase and get the tickets printed, and in the meantime, *The American Rifleman* decided to designate our very pick as the *Gun of the Year* for 2006! We are pleased to announce we are raffling away a Springfield XD 45, with a few nice accessories, to be drawn at the 2007 KC3 Annual Meeting of the Membership. [See the details on page 5 of this publication.] Help out KY's premier gun rights organization and get your chance to win today!

The coming years will provide several opportunities to showcase this Commonwealth's respect for the right to self-defense. The 2007 Gun Rights Policy Conference returns to northern KY next September with leaders from national gun rights organizations as well as many of our hard working, freedom minded colleagues from other states. In 2008, Louisville will host The National Rifle Association for its annual members convention. We'll be on hand for both events and we hope to use these forums to further the prospect of repealing the crime of carrying a concealed weapon in KY. CCDW shouldn't be a privilege, it should be a right of all law abiding citizens!



suggestion that this provision was required for KY CCDW licenses to qualify as an alternative to a NICS check when purchasing a firearm. We really like this provision, and believe we should have been able to exercise this federal exception all along but an interpretation of the previous statutory language by the Kentucky State Police prevented it. However, the necessity of the citizenship stipulation just does not seem to agree with the facts as we understand them. The NICS exception is explained in the Code of Federal Regulations:

*Title 27 CFR § 478.102 Exceptions to NICS check. [The requirement to complete a NICS check when transferring a firearm] shall not apply if—*

- (1) *The transferee has presented to the [federal firearms] licensee a valid permit or license that—*
  - (i) *Allows the transferee to possess, acquire, or carry a firearm;*
  - (ii) *Was issued not more than 5 years earlier by the State in which the transfer is to take place; and*
  - (iii) *The law of the State provides that such a permit or license is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by the transferee would be in violation of Federal, State, or local law: Provided, That on and after November 30, 1998, the information available to such official includes the NICS;*

There simply isn't any requirement referred to by this regulation that the license only be issued to U.S. citizens in order to exercise the exception. Previous correspondence between the Bureau of Alcohol, Tobacco, Firearms & Explosives and KC3 points to the same conclusion. So that we may verify that this continues to be the case, we have sent another inquiry to the BATF and are awaiting their reply.

There are real people that are significantly affected by this new requirement. We know this because we have received a number of requests from individuals seeking clarification of the new law and the reasoning behind it's passage. Of course, it is difficult to determine with nothing more than an email contact, but these people don't seem dangerous. In fact, so far, they have all been rather coherent and well spoken and exhibit what appear to be genuine concerns for the safety of themselves and their loved ones. This situation begs the question - What could possibly make their lives, or that of their loved ones, less valuable than any other CCDW applicant?

Under current law, legal resident aliens may freely acquire and possess firearms. They may bear them openly. They have the same rights to self-defense as any citizen. Why not allow for them to be TRAINED, have their BACKGROUND CHECKED, and PAY the required APPLICATION FEE to obtain a license? Illegal aliens are PROHIBITED persons just the same as felons and would not benefit from the privilege of applying for a license. These individuals commit a felony by simply possessing or even attempting to possess a firearm. Does anyone truly believe that any person preparing to commit a felony would inform the government of their intentions? And if they ARE willing to do so, WHY stop them?

The KY Constitution protects the right of "all men" to be able to provide for their own protection and that of the state, it does not base this right on citizenship. The federal constitution similarly protects the right of "the people", and the courts have found repeatedly that the enumerated rights apply to everyone, not just citizens. The lives of those affected by this provision are no less valuable than any other decent person, as such, we should do everything we can to secure the right of self-defense to ALL law-abiding free people. More simply put, if we can't trust them to peaceably carry concealed weapons LEGALLY, why would we allow them to remain within our borders at all?

If a person is here legally, not engaging in criminal behavior and wants to exercise the CCDW option for protection of self and loved ones, what's the big deal? Apparently, there really isn't any big deal at all! Legal permanent resident aliens CAN carry concealed in the Commonwealth, they just have to go to another state to get a license! To name just a few, Utah and Pennsylvania make non-resident licenses available with no apparent restriction on citizenship or alien status. Florida specifies that an applicant must be a U. S. Citizen or a "lawful permanent resident alien" to get a license. Since Kentucky recognizes ALL VALID state issued licenses to carry concealed weapons, this ridiculous new provision doesn't stop the practice, it only deters people from learning OUR laws governing firearms and self-defense and gives the licensing revenue to other states.

And that's not all! We've been in contact with one permanent resident alien that recently applied for and received his license. Seems he just got in under the wire, if he had waited till now he wouldn't be eligible to apply. But wait! The current law states the following:

*KRS 237.110(13)*

- (a) *The commissioner of the Department of State Police, or his designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.*
- (b) *The commissioner of the Department of State Police, or his designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.*

Our alien friend prepared for the worst and called the Kentucky State Police to see how his case would be handled. It would appear that, at the least, he should have his license suspended until he acquired citizenship. Not at all! He was assured by the CCDW office of the KSP that his license would remain valid until it expires over four years from now!

Obviously this citizenship provision is not a homeland security issue or the existing resident alien licenses would be revoked. Besides, how does it promote homeland security to prevent legal immigrants the means to protect themselves from the same criminal element we are ALL exposed to, including the hordes of criminals that routinely cross our porous borders? It doesn't appear to be related to the NICS exception either but we'll have to wait for a response from the BATF to be sure. Until we find a valid reason for discriminating against a law-abiding, working, tax-paying, legal resident that can get a

driver's license, a social security number and likely has an American spouse and /or kids he wishes to protect, we can only assume that this citizenship provision is a baseless and arbitrary restriction. Lacking any proper rationale, we find this in direct conflict with Section Two of the Commonwealth's Constitution:

*Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority.*

Or maybe non-citizens are NOT free men. We'd like to think they are but, after taking a hard look at the way we have been governed lately, maybe none of us enjoy that description anymore!

Until some justifiable cause comes to light for denying decent, law-abiding people the opportunity to defend themselves, KC3 will work toward repeal of the citizenship language. We hope all of our freedom loving friends will see the wisdom of our efforts and join with us to make it possible.

MEET  
OUR  
LITTLE  
FRIEND



CASEY III

Our founder, Donald A. Haubner, compared our organization to a porcupine in a newspaper interview some time ago. As he explained it, we desire to peaceably go about our daily lives but, if attacked, we will defend ourselves.

This was how we adopted Casey III as our mascot. He's an agreeable little guy who doesn't bother a soul, but if set upon by thugs or felons he'll soon show them the error of their ways. Besides, he also agrees with us regarding freedom of the press and he steadfastly believes that the quill is mightier...!!

## SHOOTERS SUPPLY & LAW ENFORCEMENT EQUIPMENT CO.

Kimber  
Beretta  
Remington  
Fobus  
SIGArms  
Kahr  
Galco  
Smith & Wesson  
Colt  
Springfield Armory  
Benelli

8007-8 Vine Crest Avenue Louisville, KY 40222

Phone: (502) 327-6827

Fax: (502) 327-6889

<http://shooterssupply.org>

PLEASE PATRONIZE OUR SPONSORS

# KENTUCKY'S *NEW* "CASTLE DOCTRINE" LAW

by J. Scott Kappas, Esq.

So what is the Castle Doctrine (KRS 503.010) and how does it affect you? A substantial number of Kentucky attorneys believe that the castle doctrine restates much of existing case law. The 1931 Kentucky court of appeals case, Gibson v. Commonwealth, held that Kentuckians had no duty to retreat when faced with the threat of deadly force. This view, along with the holdings of several other key cases, has prevailed in the Kentucky courts ever since. The concern among state legislators was that an unscrupulous judge could exercise judicial discretion and possibly "reinterpret" past court decisions. Certain details were never fully addressed by these prior decisions. So the fear that a liberal judge could impress his own opinion upon Kentucky jurisprudence was a real threat.

Under the new law, a person is presumed to be acting legitimately if he uses deadly force against any individual who **unlawfully and forcibly** enters that person's dwelling, residence, or occupied vehicle. Even if the invader himself does not employ a deadly weapon against the victim, the potential victim is acting well within his rights if he uses deadly force, such as a firearm, to thwart the attack. This statutory benchmark clearly removes any duty to retreat from the victim's responsibility. It also safeguards the victim's right to use a firearm for self-defense. In other words, even if the invader comes at you with a plastic straw, you may use your favorite .45 Kimber to put him down.

Certain exceptions to this presumption exist within the new law. If the invader has a legal right to be in the dwelling, residence, or occupied vehicle, the presumption does not apply. Other residents of the dwelling and police officers who are performing official duties would fall into this category. Also, if the person employing the defensive force is engaged in an unlawful activity at the dwelling, such as selling illegal narcotics, the presumption would not apply.

These exceptions do not mean that a wife who shoots her husband in self-defense would not be acquitted. She would simply have to prove that she was "in the right" through factual examination in court. She would not have a legal presumption that her conduct was legitimate. But this would not prevent the wife's full exoneration.

When a person is in a place other than a dwelling, residence or vehicle, he may meet force with force. This means that if you are in an area where you are legally allowed to be, such as a shopping center parking lot, and a person threatens you with a baseball bat, and you have a "reasonable belief" that this person could exact death or serious bodily injury upon you, you may use deadly force, including a firearm, against that person.

Of course, as with all examples, certain variables do apply. If the person threatening you with the baseball bat is on the other side of the parking lot, more than 100 yards away, and you shoot him, the court may find this to be unreasonable. But if the person is waving a bat at you from 6 feet way, your belief that

this person could cause you death or serious bodily injury would most certainly be considered "reasonable."

The castle doctrine also provides immunization from civil suits brought against those individuals who legitimately defend themselves. One often hears of horror stories where a burglar is shot by a homeowner and then goes on to sue the homeowner for damages. Under this new law, the courts must award attorneys fees, court costs, compensation for loss of income and all expenses to the homeowner being sued if he is found to fall with the protections of the new law. Ambulance-chasing attorneys who bottom feed for clients should find this aspect of the law quite objectionable. But the majority of Kentuckians will be relieved that such protections are in the new law.

Kentucky's castle doctrine law represents a trend among the states to protect the law-abiding citizen from the excesses of a sometimes unpredictable legal system. When threatened, one need not hesitate to defend himself or his family. As the Kentucky Court of Appeals once said,

**"It is the tradition that a Kentuckian never runs. He does not have to...he is not obligated to retreat, nor to consider whether he can safely retreat, but is entitled to stand his ground, and meet any (life-threatening) attack upon him with deadly force."**

Kentucky's great frontier hero, Daniel Boone, would certainly feel at home with such thinking. And it's safe to say that most Kentuckians today would as well.

**AUTHOR'S NOTE:** *The passage of Kentucky's "Castle Doctrine" law comes on the heels of a well organized campaign by the National Rifle Association to implement similar laws in at least 26 other states. The movement began less than a year ago after Florida passed its own version of the Castle Doctrine. The sunshine state gained quite a bit of fanfare, both positive and negative, in the national press after Governor Bush signed it into law.*

**Scott Kappas** is an attorney in private practice in Covington, Kentucky. He has written several academic studies on the Second Amendment including "The Right Most Valued by Freemen: The Origins and Historical Development of the Citizen's Right to Keep and Bear Arms" which was a winner in a legal writing competition sponsored by the National Rifle Association. Along with his law practice, he operates a Class III firearms business and is active in the political fight to preserve the citizen's right to keep and bear arms.



**Keep it Coming**  
Please Check Your  
Membership Expiration Date  
on the address label of this newsletter.  
If your membership has expired, this  
will be the last issue you will receive  
unless you renew.

Image on page one courtesy of Oleg Volk  
[www.a-human-right.com/](http://www.a-human-right.com/)

# Kentucky Coalition to Carry Concealed (KC3) Membership Application

(Please print clearly - all information confidential and for KC3 use only)

Is this a RENEWAL? If so, what is your current membership number? \_\_\_\_\_

Name \_\_\_\_\_ Male/Female \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ County \_\_\_\_\_ State \_\_\_\_\_ ZIP<sup>+</sup>4 \_\_\_\_\_ - \_\_\_\_\_

Home Phone Number (\_\_\_\_) \_\_\_\_\_ Email Address \_\_\_\_\_

Are you a DOCJT Certified Instructor? \_\_\_\_\_ Trainer? \_\_\_\_\_ If yes, do you wish a listing on our web page? \_\_\_\_\_

Do you want to be on our email broadcast list for timely information and alerts? \_\_\_\_\_

How did you hear about us? \_\_\_\_\_

If a referral, by whom? \_\_\_\_\_

Please choose a membership option: \_\_\_\_\_ (Check one)

Single membership - \$10 for one year \_\_\_\_\_ or \$25 for three years \_\_\_\_\_

Household membership (2 voting members) - \$15 for one year \_\_\_\_\_ or \$40 for three years \_\_\_\_\_

List additional member's name for Household membership \_\_\_\_\_

Are you interested in becoming more actively involved in the campaign to further our firearms rights? \_\_\_\_\_

Please describe:

\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

---

The following information is optional and is not required for membership.

Date of Birth \_\_\_\_\_ Occupation \_\_\_\_\_ Party affiliation? \_\_\_\_\_

CCDW License from another state? \_\_\_\_\_ If so, which state(s)? \_\_\_\_\_

Memberships in other pro-firearms organizations? \_\_\_\_\_

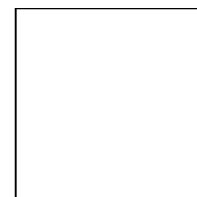
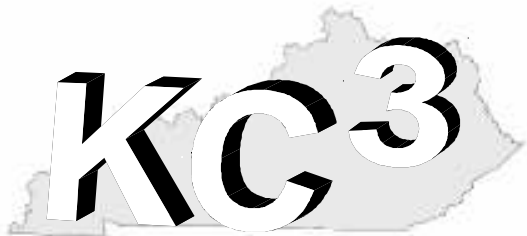
Send application with check or money order to:

**KC3 Membership**  
**P.O. Box 1269, Frankfort, KY 40602**  
**Send e-mail inquiries to: [kc3info@bellsouth.net](mailto:kc3info@bellsouth.net)**

*"One of the best RKBA sites on the Web today"*

**[www.kc3.org](http://www.kc3.org)**





*Because the right to protect yourself  
shouldn't stop at your front door!™*

P.O. Box 1269

Frankfort, KY 40602-1269



**Need more information about concealed carry or related material  
than this newsletter is able to provide?**

**Visit our web page at:**

**[www.kc3.org](http://www.kc3.org)**

**If you still can't find what you are looking for, send your question to:**

**E-mail [kc3info@bellsouth.net](mailto:kc3info@bellsouth.net)**

**Fax (502) 231-4279**