STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

January 10, 2014

ATTORNEY GENERAL OPINION NO. 2014- 01

Gary E. Rebenstorf, City Attorney
City of Wichita
City Hall, 13th Floor
445 North Main St.
Wichita, KS 67202-1635

Re: Cities and Municipalities–Miscellaneous Provisions–Firearms and Ammunition; Regulation by City or County, Limitations

Cities and Municipalities–Miscellaneous Provisions– Knives and Knife Making Components; Regulation by Municipality, Limitations; Definitions

Crimes and Punishments–Crimes Against the Public Safety–Criminal Use of Weapons

Crimes and Punishments–Crimes Against the Public Safety–Criminal Carrying of a Weapon

State Departments; Public Officers and Employees–Firearms–Personal and Family Protection Act

Synopsis: A person may carry a knife, concealed or unconcealed, regardless of the length of the blade, without violating K.S.A. 2013 Supp. 21-6301 or 21-6302. The term "knife," as defined by K.S.A. 2013 Supp. 12-16,134, includes swords and machetes. A city may prohibit the possession of knives only if the city enacted an ordinance or rule prohibiting such possession prior to July 1, 2013.

The Attorney General is responsible for administering the Personal and Family Protection Act (PFPA), but the PFPA is silent on enforcement of the provisions of K.S.A. 2013 Supp. 75-7c20. A state or municipal building that is not exempt from the provisions of K.S.A. 2013 Supp. 75-7c20 and does not provide adequate security measures may not prohibit a

concealed carry licensee from carrying a concealed handgun into the building.

A municipality, as defined by K.S.A. 2013 Supp. 75-7c20(l)(2), may adopt personnel policies to restrict the concealed carry of handguns in the municipal building in which the employee's work place is located if the building is exempt from the provisions of K.S.A. 2013 Supp. 75-7c20, or if the building is posted as prohibiting concealed carry and adequate security measures are provided.

A municipality may adopt personnel policies to restrict the carrying of concealed handguns by employees while acting in the scope of their employment outside the building in which the employee's work place is located, but may not prohibit the possession of a handgun in a private means of conveyance. Even if such personnel policies exist, it is not a violation of the PFPA for a state or municipal employee licensed under the PFPA to carry a concealed handgun into a state or municipal building through a restricted access entrance.

The security plan described in K.S.A. 2013 Supp. 75-7c20(i) must provide adequate security as determined by the municipality.

K.S.A. 2013 Supp. 75-7c20 does not apply to a municipal building that is leased by a private party during the lease period.

A knife is not a weapon for the purposes of the PFPA. A city that enacted an ordinance or rule prohibiting the carrying of knives into city buildings prior to July 1, 2013, may continue to prohibit the carrying of knives into city buildings. Such city is not required to provide adequate security measures in order to prohibit the carrying of knives into city buildings.

A city that did not enact a rule or ordinance prohibiting the carrying of knives into city buildings prior to July 1, 2013, may not prohibit the carrying of knives into city buildings, even if adequate security measures are provided in order to detect and restrict the carrying of weapons into a city building.

The prohibition against enacting local knife regulations in K.S.A. 2013 Supp. 12-16,134(a) applies only to municipalities, not state government agencies. Cited herein: K.S.A. 2-1215; 12-763; 12-16,123; K.S.A. 2013 Supp. 12-16,124, 12-16,126; 12-16,134; 12-16,219; 21-6301; 21-6302; 21-6305; 31-134; 31-612; 72-136; 75-7c01; 75-7c03; 75-7c10; 75-7c16; 75-7c17; 75-7c20; K.S.A. 2010 Supp. 12-16,124; K.S.A. 2012 Supp. 21-6301, 21-6302; 75-7c10 Kan. Const. Art. 12, § 5; K.A.R. 16-11-7.

* * *

Dear Mr. Rebenstorf:

As the Wichita City Attorney, you request our opinion concerning bills enacted during the 2013 legislative session that limit the ability of municipalities to enact local laws regarding the carrying of knives and firearms. Each of your questions is addressed below, beginning with the legislative enactments concerning the carrying of knives.

Carrying and possessing knives, swords and machetes

You ask whether individuals may carry knives, regardless of the length of the blade, and whether a city may prohibit the possession of swords and machetes. Our analysis begins with a review of the 2013 amendments to two criminal statutes, now codified at K.S.A. 2013 Supp. 21-6301 and 21-6302.

The pertinent part of K.S.A. 2013 Supp. 21-6301(a) states that the criminal use of weapons includes knowingly:

> (1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, metal knuckles or throwing star;
>
> (2) possessing with intent to use the same unlawfully against another, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character.

The pertinent part of K.S.A. 2013 Supp. 21-6301(a) similarly states that the criminal carrying of a weapon includes knowingly carrying:

> (1) Any bludgeon, sandclub, metal knuckles or throwing star;
>
> (2) concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character.

The 2013 amendments deleted from K.S.A. 2012 Supp. 21-6301(a)(1) and 21-6302(a)(1) the language "or any knife, commonly referred to as a switch blade . . . or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement."[1] The 2013 amendments also deleted from K.S.A. 2012 Supp. 21-6301(a)(2) and 21-6302(a)(2) the language "a dagger, dirk . . . dangerous knife, straight edged razor, stiletto . . . except an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument."[2]

[1] L. 2013, Ch. 88, §§2(a)(1) and 3(a)(1).
[2] L. 2013, Ch. 88, §§2(a)(2) and 3(a)(2).

Based upon the above amendments, as of July 1, 2013, switchblades, daggers, dirks, dangerous knives, straight edged razors and stilettos are not "weapons" for the purposes of K.S.A. 2013 Supp. 21-6301 and 21-6302. It is no longer a violation of those criminal statutes to possess or carry a knife, regardless of the length of the blade, whether concealed or unconcealed.

These amendments also impact other statutes that define prohibited weapons as those listed in K.S.A. 21-6301 and 21-6302, and amendments thereto. For example, as of July 1, 2013, a convicted felon may possess or carry, whether concealed or unconcealed, a knife, regardless of the length of the blade, without violating K.S.A. 2013 Supp. 21-6305, aggravated weapons violation by a convicted felon.

Your next question is whether a city may prohibit the possession of swords or machetes as a "dangerous weapon" pursuant to K.S.A. 2013 Supp. 21-6301 and 21-6302. In our opinion, the answer is no.

The 2013 amendments to K.S.A. 2012 Supp. 21-6301(a)(1) and (2) and 21-6302(a)(1) and (2) left untouched existing language prohibiting the criminal use or criminal carrying of "a billy, blackjack, slungshot, . . . or any other dangerous or deadly weapon or instrument of like character." One might suggest that a sword or other object with a long, sharp blade would fall within the category of "any other dangerous or deadly weapon or instrument." However, the catch-all category of "any other dangerous or deadly weapon or instrument" is qualified by the three words that follow it: "of like character."

A cutting instrument such as a knife, dagger or stiletto is a different type of weapon than a bludgeoning instrument such as a billy, blackjack, or slungshot, and therefore does not fall within the catch-all category of "other dangerous or deadly weapon or instrument *of like character*." Therefore, a sword or machete is not a "dangerous or deadly weapon of like character" for the purposes of K.S.A. 2013 Supp. 21-6301 and 21-6302.

Whether K.S.A. 2013 Supp. 12-16,134(a) preempts all local ordinances regulating the possession and carrying of knives

Your next questions are whether a city may regulate the possession or carrying of knives and whether a city, as a property owner, may prohibit the possession or carrying of knives inside public buildings or on public property. Both questions involve the enactment of a new statute applicable only to municipalities, now codified at K.S.A. 2013 Supp. 12-16,134.

K.S.A. 2013 Supp. 12-16,134(a) states: "[a] municipality shall not enact any ordinance, resolution, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components."

K.S.A. 2013 Supp. 12-16,134(c)(1) defines knife as "a cutting instrument and includes a sharpened or pointed blade." We note that although a sword or a machete is not generally considered to be a "knife," this definition clearly encompasses both of them. Therefore, city regulation of the possession or carrying of swords and machetes would be subject to K.S.A. 2013 Supp. 12-16,134.

The answers to both of your questions are dependent on whether K.S.A. 2013 Supp. 12-16,134(a) has completely extinguished the ability of municipalities to regulate the possession and carrying of knives. Our analysis begins with the Home Rule Amendment to the Kansas Constitution.[3]

The Home Rule Amendment grants cities the power to enact legislation to govern local affairs, "subject only to enactments of the legislature of statewide concern applicable uniformly to all cities, [and] to other enactments of the legislature applicable uniformly to all cities . . . ."[4] In addition, the Home Rule Amendment states that city home rule powers "shall be liberally construed for the purpose of giving to cities the largest measure of self-government."[5]

K.S.A. 2013 Supp. 12-16,134(a) is plainly an enactment of the legislature that applies uniformly to all cities; there are no exceptions for particular cities or classes of cities. Therefore, on and after July 1, 2013, the effective date of K.S.A. 2013 Supp. 12-16,134, a city may not enact new local legislation relating to the possession or carrying of knives.

The remaining question is, does K.S.A. 2013 Supp. 12-16,134(a) also serve to preempt local laws regulating knives that were enacted *prior to* July 1, 2013?

When interpreting statutes, courts follow established rules of statutory construction.

> The legislature is presumed to have expressed its intent through the language of the statutory scheme it enacted. For this reason, when the language of a statute is plain and unambiguous, courts need not resort to statutory construction. Instead, an appellate court is bound to implement the legislature's expressed intent.[6]

In other words, when the language of a statute is plain and unambiguous, we must assume that the statute's language expresses the intent of the legislature, and we must give effect to that intent.

By its plain language, K.S.A. 2013 Supp. 12-16,134(a) states that "[a] municipality shall not enact any ordinance, resolution, rule or tax . . . ." The common and ordinary

[3] Kan. Const. Art. 12, § 5.
[4] Kan. Const. Art. 12, § 5(b).
[5] Kan. Const. Art. 12, § 5(d).
[6] *State v. Arnett*, 290 Kan. 41, Syl. ¶ 1 (2010).

meaning[7] of the verb "enact" is "to establish by legal and authoritative act."[8] K.S.A. 2013 Supp. 12-16,134(a) is not ambiguous in any way because its meaning is not uncertain: a city shall not *establish* by legal and authoritative act any ordinance regulating knives. This language cannot be read as invalidating ordinances that have already been established.

K.S.A. 2013 Supp. 12-16,134(a) is a unique statute in that it does not include express language invalidating existing municipal knife laws, prohibiting the enforcement of existing municipal knife laws, or reserving for the legislature the exclusive authority to regulate the field of knives. Typically, when the legislature intends to preempt local legislation, it will include at least one of those three provisions reflecting legislative intent to completely bar local regulation in a particular area.[9] A prime example is K.S.A. 2013 Supp. 12-16,124(a), which bans all local regulation of firearms and ammunition and reads in relevant part:

> *No city or county shall adopt any ordinance, resolution or regulation*, and *no agent of any city or county shall take any administrative action*, governing the purchase, transfer, ownership, storage or transporting of firearms or ammunition, or any component or combination thereof. . . . *[A]ny such ordinance, resolution or regulation adopted prior to the effective date of this 2007 act shall be null and void*.[10]

In addition to this statute, the legislature also enacted a *second* preemption statute that expressly occupies the field of concealed carry regulation, prohibits a city or county from regulating firearms, and expressly renders existing local firearms regulations null and void.[11] By contrast, K.S.A. 2013 Supp. 12-16,134(a) merely states that a municipality "shall not enact" local knife regulations, but does not expressly invalidate or prohibit the enforcement of existing local regulations or expressly reserve for the legislature the exclusive authority to regulate knives.

---

[7] "In attempting to discover the legislature's intent, we examine the language of the statute, giving common words their common and ordinary meanings." *Davis v. Winning Streak Sports, LLC*, 48 Kan. App. 2d 677, 682 (2013).

[8] "Enact." Merriam-Webster.com. http://www.merriam-webster.com/dictionary/enact (accessed December 2, 2013).

[9] *See, e.g.*, K.S.A. 2-1215 ("A municipality . . . shall not enact or enforce any ordinance . . . ."); 12-763 ("The governing body shall not adopt or enforce zoning regulations . . . ."); 12-16,123 (". . . no municipality shall adopt or enforce an ordinance or resolution . . . ."); K.S.A. 2013 Supp. 12-16,126 ("A governing body . . . shall not adopt an ordinance, resolution, regulation or plan . . . . Any ordinance, resolution, regulations, plan . . . in violation of the provisions of this section is void."); 12-16,219 ("No municipality shall adopt or enforce any ordinance . . ."); 31-134 ("No municipality shall enact or enforce any ordinance, resolution or rule or regulation . . . ."); 31-612 ("a city . . . shall not enact or enforce any ordinance . . . ."); 72-136 (". . . shall not adopt any rules and regulations or interpret any existing rule and regulation . . . .").

[10] Emphasis added.

[11] K.S.A. 2013 Supp. 75-7c17(a).

Recent Kansas Supreme Court decisions lead us to believe that a Kansas court would read the language of K.S.A. 2013 Supp. 12-16,134(a) literally.[12] The legislature has demonstrated in K.S.A. 2013 Supp. 12-16,124(a) that it knows how to extinguish the authority of cities to adopt and enforce local weapons regulations by clear and unambiguous statutory language. That the legislature did not include in K.S.A. 2013 Supp. 12-16,134 language invalidating existing municipal knife laws, prohibiting the enforcement of existing municipal knife laws, or reserving for the legislature the exclusive authority to regulate the field of knives, suggests that such omissions were intentional.[13] "A court cannot delete vital provisions or supply vital omissions in a statute. No matter what the legislature may have really intended to do, if it did not in fact do it, under any reasonable interpretation of the language used, the defect is one that the legislature alone can correct."[14]

Further supporting our interpretation, the Kansas Supreme Court has repeatedly "rejected the argument that state law preemption of a particular field can be implied rather than expressed by a clear statement in the law."[15] While K.S.A. 2013 Supp. 12-16,134 clearly preempts new knife ordinances, any preemption of existing ordinances would, at best, arise by implication.

In the absence of language clearly indicating that the legislature intended K.S.A. 2013 Supp. 12-16,134(a) to apply to local laws enacted prior to July 1, 2013, it is our opinion that a court would interpret the phrase "shall not enact" to be purely prospective in nature, prohibiting cities from enacting new ordinances regulating knives but leaving undisturbed existing ordinances that were already enacted prior to the effective date of K.S.A. 2013 Supp. 12-16,134.

---

[12] *See Schlaikjer v. Kaplan*, 296 Kan. 456,465 (2013) ("[I]t is not our practice to manufacture judicial exceptions to plain and unambiguous statutory language."); *O'Brien v. Leegin Creative Leather Products, Inc.*, 294 Kan. 318, 348 (2012) ("Under the pattern for interpretation of statutes that this court has now firmly established, we are loathe to read unwritten elements into otherwise clear legislative language. . . . We take the legislature at its word, unless there is ambiguity . . . ."); *Bergstrom v. Spears Mfg. Co.*, 289 Kan 605, 609 (2009) ("We have consistently elected to refrain from reading language into the statutes that the legislature did not include.").

[13] *See, e.g., State v. Nambo*, 295 Kan. 1, 4-5 (2012) ("In K.S.A. 21–4618(a) the legislature showed in a statute mandating imprisonment for the use of firearms in the commission of crimes against persons that it knew how to utilize the active voice and to specify the individual actor. So we assume in the statute (K.S.A. 22–4902(a)(7)) mandating offender registration for the use of deadly weapons in the commission of person felonies that the legislature's omission of these two particular features was intentional."); *Zimmerman v. Board of County Com'rs*, 289 Kan. 926, 974 (2009) (". . . the legislature has demonstrated that it knows how to preempt [local regulation of commercial wind farms] with the [Kansas Corporation Commission]. Its failure to do so in our scenario strongly suggests that it did not so intend."); *In re W.H.*, 274 Kan. 813, 822 (2002) ("Nowhere in this elaborate scheme did the legislature provide for consecutive sentencing [for juveniles]. . . . if the legislature wanted to prohibit consecutive sentences for juveniles, it could have done so.").

[14] *State v. Urban*, 291 Kan. 214, Syl. ¶ 1 (2010).

[15] *Zimmerman*, 289 Kan. at 973.

Enforcing the provisions of K.S.A. 2013 Supp. 75-7c20 and penalties for non-compliance

You ask what state agency is responsible for enforcing the provisions of K.S.A. 2013 Supp. 75-7c20 and whether any penalties may be imposed for failure to comply with such provisions.

K.S.A. 2013 Supp. 75-7c20 is "a part of and supplemental to"[16] the Personal and Family Protection Act (PFPA).[17] The PFPA authorizes the Attorney General to issue concealed carry licenses[18] and adopt rules and regulations as necessary to administer the PFPA,[19] but it is silent on the enforcement of the provisions of K.S.A. 2013 Supp. 75-7c20.

The PFPA also is silent on penalties for a state or municipal building that violates the provisions of K.S.A. 2013 Supp. 75-7c20. However, a state or municipal building that fails to comply with that statute may not prohibit a concealed carry licensee from carrying a concealed handgun into that building.

Whether a municipality may adopt personnel policies that restrict municipal employees from carrying concealed handguns

Prior to the 2013 amendments,[20] K.S.A. 2012 Supp. 75-7c10(b) read as follows:

> Nothing in this act shall be construed to prevent:
>
> (1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under [the PFPA] from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer, except that no employer may prohibit the possession of a handgun in a private means of conveyance, even if parked on the employer's premises. . . .

Due to the 2013 amendments, K.S.A. 2013 Supp. 75-7c10 now begins with the following proviso: "Subject to the provisions of [K.S.A. 2013 Supp. 75-7c20] . . . ." K.S.A. 2013 Supp. 75-7c20(c) states:

> No state agency or municipality shall prohibit an employee who is licensed to carry a concealed handgun under the provisions of the personal and family protection act from carrying such concealed handgun at the employee's work place unless the building has adequate security

[16] K.S.A. 2013 Supp. 75-7c20(m).
[17] K.S.A. 2013 Supp. 75-7c01 *et seq.*
[18] K.S.A. 2013 Supp. 75-7c03.
[19] K.S.A. 2013 Supp. 75-7c16.
[20] L. 2013, Ch. 105, § 9.

> measures and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

Because K.S.A. 2013 Supp. 75-7c10(b)(1) is now "subject to" the provisions of K.S.A. 2013 Supp. 75-7c20, the provisions of K.S.A. 2013 Supp. 75-7c20 control over conflicting provisions in K.S.A. 2013 Supp. 75-7c10(b)(1). Therefore, a municipality[21] may through its personnel policies restrict or prohibit an employee licensed under the PFPA from carrying a concealed handgun into the employee's work place *only if* one of two specific sets of circumstances exist.

First, if the governing body of the municipality, or if no governing body exists, the chief administrative officer of the building, is authorized to exempt the building from the provisions of K.S.A. 2013 Supp. 75-7c20,[22] then the municipality may exercise such exemption and restrict or prohibit by personnel policies the carrying a concealed handgun into the exempted building. In that case, the provisions K.S.A. 2013 Supp. 75-7c10(b)(1) would control because K.S.A. 2013 Supp. 75-7c20 would not apply to that building during the exemption period.

Second, if the municipality's building is *not* exempt from the provisions of K.S.A. 2013 Supp. 75-7c20, the municipality may restrict or prohibit by personnel policies the carrying of a concealed handgun in the employee's work place *only if* the building in which the work place is located has adequate security measures in place and the building is posted in accordance with K.S.A. 2013 Supp. 75-7c10.[23]

Because K.S.A. 2013 Supp. 75-7c20 only applies to state or municipal *buildings*, a municipality may prohibit the carrying of a concealed handgun in an employer-owned vehicle. In addition, the PFPA does not prevent a public employer from restricting or prohibiting by personnel policies the carrying of a concealed handgun when an employee is engaged in the duties of the person's employment outside the building in which the employee's work place is located, e.g. during a business trip, or if the employee's work place is not within a state or municipal building. However, if the employee travels to offsite work duties in the employee's private vehicle, the public employer may not prohibit the employee from transporting a concealed handgun in the employee's vehicle.

Requirements of the security plan described in K.S.A. 2013 Supp. 75-7c20(i)

You also inquire about the specific items that a city must include in the security plan described in K.S.A. 2013 Supp. 75-7c20(i). The statute is silent as to what must be included in the security plan, but it must provide "adequate security" as determined by the municipality.

---

[21] *See* K.S.A. 2013 Supp. 75-7c20(l)(2) ("The terms 'municipality' and 'municipal' are interchangeable and have the same meaning as the term 'municipality' is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.").
[22] *See* K.S.A. 2013 Supp. 75-7c20(i) and (j).
[23] *See also* K.A.R. 16-11-7.

We note that your question assumes that a security plan "must be filed" in order to claim an exemption under K.S.A. 2013 Supp. 75-7c20(i). Please be advised that such security plan "shall be maintained on file" by the municipality and "shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction,"[24] but the plan should not be filed with the Attorney General's Office.

Whether K.S.A. 2013 Supp. 75-7c20 applies when renting municipal buildings to third parties on an intermittent basis

Your next question concerns the application of K.S.A. 2013 Supp. 75-7c20 to city buildings that are rented to private parties. K.S.A. 2013 Supp. 75-7c20(l)(5)(A) defines "state or municipal building" as:

> [A] building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

We first refer you to Attorney General Opinion No. 2013-20, in which we distinguished between a lease and a license to use real property. It is unclear from your question whether a rental agreement between the City of Wichita and a private party to rent a city building constitutes a lease or a license. As explained in Attorney General Opinion No. 2013-20, the payment of rent and the transfer of exclusive possession of the property are two requirements for a lease.

The definition of "state or municipal building" clearly excludes a municipal building that is leased by a private entity. In our opinion, a municipal building that is periodically leased to private entities falls within that exception during such rental period. Thus, K.S.A. 2013 Supp. 75-7c20 would not apply to a municipal building while such building is leased by a private entity.

Carrying unconcealed firearms and weapons inside city buildings

Your last question is whether the city, as a property owner, can prohibit individuals from openly carrying firearms and weapons inside city buildings. This question involves several provisions of the PFPA and K.S.A. 2013 Supp. 12-16,124 and 12-16,134.

First, K.S.A. 2013 Supp. 75-7c20(a) states:

> The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures *to ensure that no weapons are permitted to be carried into such building* and the

[24] K.S.A. 2013 Supp. 75-7c20(i).

> building is conspicuously posted in accordance with K.S.A. 75–7c10, and amendments thereto.[25]

"Adequate security measures" is defined as:

> [T]he use of electronic equipment and personnel at public entrances to detect and restrict the carrying of *any weapons* into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that *weapons* are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried *weapons*, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.[26]

"Weapon" is defined as "a weapon described in K.S.A. 21-6301, and amendments thereto."[27] The amendments to that statute were discussed earlier in this opinion.

Open Carry of Firearms

With respect to the open carrying of firearms into public buildings, we previously opined that K.S.A. 2010 Supp. 12-16,124(a) and (b)(2) prevent a city or county from completely prohibiting the open carry of a loaded firearm while on property open to the public.[28] "Property open to the public" includes municipal buildings.

However, following the enactment of K.S.A. 2013 Supp. 75-7c20, there is now a conflict between the provisions of K.S.A. 2013 Supp. 12-16,124, which we believe prohibits a city or county from completely banning the open carry of loaded firearms on property open to the public, and K.S.A. 2013 Supp. 75-7c20, which states that a municipality may not prohibit the concealed carry of handguns into a municipal building unless adequate security measures are in place to ensure that no weapons are carried into such building. Put simply, one statute states that a city cannot ban the open carry of loaded firearms into public buildings, and the other statute allows a city to ban *all* weapons, concealed and unconcealed, inside city buildings if adequate security measures exist.

In our opinion, the carrying of any firearm, whether loaded or unloaded, concealed or unconcealed, into a state or municipal building is now governed by the provisions of K.S.A. 2013 Supp. 75-7c20. To the extent that Attorney General Opinion No. 2011-24 conflicts with K.S.A. 2013 Supp. 75-7c20, it is withdrawn. We reach this opinion based upon two canons of statutory interpretation.

---

[25] Emphasis added.
[26] K.S.A. 2013 Supp. 75-7c20(l)(1) (emphasis added).
[27] K.S.A. 2013 Supp. 75-7c20(l)(6).
[28] Attorney General Opinion No. 2011-24.

First, when two statutes are in conflict, the more specific statute governs.[29] In this case, K.S.A. 2013 Supp. 75-7c20 is the more specific statute because it pertains to concealed handguns, while K.S.A. 2013 Supp. 12-16,124 pertains to firearms in general. In addition, K.S.A. 2013 Supp. 12-16,124 provides general preemption of local firearms regulations, but K.S.A. 2013 Supp. 75-7c20 allows a municipality to ban concealed carry into a municipal building only when adequate security measures are present and the building is posted as prohibiting concealed carry. Therefore, it is our opinion that the language in K.S.A. 2013 Supp. 12-16,124 that preempts local ordinances, resolutions and regulations regarding the transportation of firearms is now subject to K.S.A. 2013 Supp. 75-7c20 to the extent that a conflict exists between the two statutes.

Second, "[s]tatutes on the same subject are considered 'in pari materia' (in the same matter) and are to be interpreted to achieve consistent results whenever possible."[30] Because K.S.A. 2013 Supp. 12-16,124 and K.S.A. 2013 Supp. 75-7c20 both pertain to the same subject (firearms), they must be "construed together as complementary enactments."[31]

As noted above, the purpose of providing adequate security measures in a state or municipal building is "to ensure that *no weapons* are permitted to be carried into such building."[32] The definition of "weapon" in K.S.A. 2013 Supp. 75-7c20(l)(6) clearly includes openly carried firearms. Therefore, to interpret the provisions of K.S.A. 2013 Supp. 12-16,124 and K.S.A. 2013 Supp. 75-7c20 consistently, we read K.S.A. 2013 Supp. 75-7c20 as authorizing a city or county to prohibit the open carry of firearms into a municipal building if adequate security measures exist.

Thus, it is our opinion that if adequate security measures exist, a state or municipal building may prohibit *both* the open carry and concealed carry of firearms into such building.

Open Carry of Knives

As previously discussed, it is our opinion that K.S.A. 2013 Supp. 12-16,134(a) prohibits a municipality from enacting any *new* ordinance, resolution or rule relating to the transportation, possession or carrying of knives, but does not extinguish local knife laws that were enacted prior to July 1, 2013.

K.S.A. 2013 Supp. 75-7c20 defines "weapon" as "a weapon described in K.S.A. 21-6301, and amendments thereto." As noted above, there are no references to knives or other cutting instruments in K.S.A. 2013 Supp. 21-6301. Therefore, adequate security measures as defined in K.S.A. 2013 Supp. 75-7c20 do not need to detect and restrict the carrying of *knives* into state or municipal buildings because knives are not considered weapons for the purposes of the PFPA. Reading K.S.A. 2013 Supp. 12-

[29] *See*, *e.g.*, *In re Mental Health Ass'n of Heartland*, 289 Kan. 1209, 1215 (2009).
[30] *State v. Davis*, 48 Kan. App. 2d 573, 574 (2013).
[31] *Flowers v. Marshall*, 208 Kan. 900, 905 (1972).
[32] K.S.A. 2013 Supp. 75-7c20(a) (emphasis added).

16,134(a) and 75-7c20 together, we reach two opinions regarding the open carry of knives into municipal buildings.

First, with respect to a city that had enacted an ordinance or rule prohibiting the carrying of knives into a city building prior to July 1, 2013, it is our opinion that the city may continue to enforce such rule because we do not believe that local laws in effect prior to July 1, 2013, are extinguished by the enactment of K.S.A. 2013 Supp. 12-16,134(a). A city with such existing local laws need not install adequate security measures for the sole purpose of prohibiting the carrying of knives into a city building; the existing ordinance or rule is sufficient.

Second, with respect to a city that had *not* enacted an ordinance or rule prohibiting the carrying of knives into city buildings prior to July 1, 2013, it is our opinion that such city may not enact a new rule to prohibit a person entering a city building from carrying a knife, either concealed or unconcealed, into such building, regardless of the length of the blade, and regardless of whether adequate security measures are in place to ensure that no weapons are carried into the building. This is because K.S.A. 2013 Supp. 12-16,134(a) prohibits a city from enacting on or after July 1, 2013, new regulations that govern the possession and carrying of knives.

Further, a city that had *not* enacted an ordinance or rule prohibiting the carrying of knives into city buildings prior to July 1, 2013, cannot rely on the PFPA for authority to enact such a rule. As previously discussed, as a result of the 2013 amendments to K.S.A. 2012 Supp. 21-6301, a criminal statute, knives are not considered weapons for the purposes of the PFPA. Therefore, the PFPA does not currently require a city to detect and restrict the carrying of knives or other cutting instruments as part of adequate security measures that must be in place in order to prohibit concealed carry in municipal buildings.

Had the legislature *not* amended K.S.A. 2012 Supp. 21-6301 in that fashion, such adequate security measures would be required to detect and restrict the carrying of knives into city buildings. In that case, we believe the PFPA would authorize a city without an existing ordinance or rule prohibiting the carrying of knives into city buildings prior to July 1, 2013, to restrict the carrying of knives into a city building as part of adequate security measures installed to restrict concealed carry of handguns into the building, notwithstanding the language of K.S.A. 2013 Supp. 12-16,134(a).

It may seem counterintuitive that a city without existing local knife laws may provide adequate security measures to prohibit the entry of firearms and other weapons into a public building, but may not prohibit knives, swords or machetes; however, the plain language of K.S.A. 2013 Supp. 12-16,134 and 75-7c20 cannot be ignored. “It is presumed the legislature had and acted with full knowledge and information as to the subject matter of the statute, as to prior and existing law and legislation on the subject of the statute and as to the judicial decisions with respect to such prior and existing law

and legislation."[33] We therefore presume that the combined legal effects of K.S.A. 2013 Supp. 12-16,134 and 75-7c20 are intentional.

As a final comment, we would reiterate that K.S.A. 2013 Supp. 12-16,134(a) prohibits only *municipalities* from enacting new local rules or ordinances governing the carrying or transportation of knives; the statute has no effect on state government buildings or agencies. Currently, there are no restrictions on the ability of state government agencies to restrict or prohibit the carrying of knives into state buildings.

Sincerely,

Derek Schmidt
Attorney General

Sarah Fertig
Assistant Attorney General

DS:AA:SF:sb

[33] *Rogers v. Shanahan*, 221 Kan. 221, 225 (1976).