

# OPINION

**THE HUTCHINSON NEWS**

**Editorial Board**

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**EDITORIALS**

## Keeping watch

**Criminal law changes show need for public engagement**

The Kansas Legislature has been busy in its work this session, which has included passage of several laws affecting the state's criminal justice system.

If you haven't been following along at home, switchblades are now legal, warrants are a little easier to secure – even before a crime has been committed – local prosecutors now have more flexibility in seating a grand jury, and it's a potential crime for a federal agent to enter the state with a mind toward gun control enforcement. The statute of limitations has been removed from rape cases, and the indefensible crime of human trafficking now carries significant penalties.

Regardless of whether one thinks such changes are good or bad, the list of legislative alterations to the state's criminal statutes highlights the need for Kansans to stay informed about the legislation that is introduced and debated in Topeka.

All of the crime-related laws hold the potential to affect individual Kansans throughout their lives – some in relatively minor ways, others in a significant and profound manner.

For instance, one relatively minor change is likely to make life much simpler for Kansans who seldom remember to put their updated insurance information in their glove boxes or wallets. Now,

thanks to a change in state law, motorists can pull out their phone and use an electronic version of their insurance card to avoid a ticket and its consequences.

More concerning are changes that loosen the requirements for securing warrants. Now, instead of proving that a crime has been committed, law enforcement officials will be allowed to secure a warrant in advance of a crime. While law enforcement says the measure is a time saver that will allow them to better fight criminal activity and that it's not a significant change to current protocol, it's a change that will require oversight by the public.

Likewise, another change allows local prosecutors to more easily seat a grand jury to hear evidence in criminal cases. In some parts of the state, active use of a grand jury could be an effective tool to bring to court cases that languish under the ordinary process. Yet, thanks to the secretive nature of the grand jury, there is legitimate concern the legal mechanism could be used to keep secret – even from the defendant – otherwise public information.

Every session the Kansas Legislature tackles issues that carry the potential to change the way Kansans live their everyday lives, conduct their businesses and protect their families. Such weighty issues deserve and rely on scrutiny from a public that is informed and educated about what those laws might do and how they might affect their lives.

## Honor Teams

**Spotlight shines on students who achieve off the field**

This Sunday and last, names and pictures of dozens of outstanding youth have been featured on the front and inside pages of the newspaper. They have been recognized and profiled for their accomplishments – not for their athletic success, where we typically find names and faces of youth in the paper, but for academics, music, art, leadership and other special talents.

Too often, we as a society give the athletes all the glory. This is at least one time of year when The Hutchinson News shines the light on other young people in our readership area.

Through our annual "Honor Teams" project, The News recognizes dozens of students from the area, and again this year we are featuring them on our Sunday front page over two weeks. "Honor Teams" features outstanding students who have excelled in any one of four categories – academics, fine and performing arts, lead-

ership and community service, and overcoming challenges. "All stars" in the first two were featured last Sunday, the others this week. "Overcoming challenges" is an especially gratifying category of recognition, shining the light on students who have disabilities or come from unfortunate circumstances and succeed despite these challenges.

Honorees are selected from nominations made by teachers and counselors in our 39-county circulation area. This year, The News received 262 nominations from 34 schools.

While making the list on one of the all-area sports teams is a great honor, as another school year winds down, our high schoolers who excel in the classroom, on stage or in their community now are recognized.

If you missed last Sunday's honor teams, they can be found at [www.hutchnews.com/Student/2013-Hutchinson-News-Honor-Teams](http://www.hutchnews.com/Student/2013-Hutchinson-News-Honor-Teams). Congratulations to these great students. You make not only your parents proud, but all of us.



**COLUMNISTS**

## This isn't Kansas Conservatism



Jason Probst

There has been much talk recently about the need to restore Kansas, and the nation, to its traditional, conservative values.

Kansans cared so deeply about the need to hold those principles they swept into office lawmakers who advertised themselves as conservatives. We elected Tim Huelkamp to a second term as a U.S. representative, and he's since become the face of the conservative movement. Kansas Gov. Sam Brownback embodies the political image of a strong, traditional conservative.

However, when it comes to legislation that has emerged this session, there's very little that meets the definition of conservative.

A conservative, by his or her nature, doesn't like change, especially not the sort that comes too fast or reaches too far.

Conservatives manage their family budgets responsibly. They don't spend money on things they don't need, and they don't risk their family's future by taking unnecessary risks. They don't quit their jobs before they have another one lined up, and often only if a new job offers more income, improved opportunities for growth or a schedule that's better for the family. There's not a conservative father I know who would spend money on something extravagant while asking his family to go without. If money is tight, a conservative takes on a second job before he asks for sacrifices from his family.

Yet for all these conservatives we've sent to Topeka, this session has read like a liberal experiment. At last count, the governor signed more than 100 bills into law. Some were fairly harmless, some were good, and some will fundamentally change the direction of the state.

The three biggest examples of extreme legislation disguised as conservative policies are found in attempted to undo a 90-year-old law protecting family farmers and rural communities from foreign corporate farms; efforts to fundamentally alter the state's tried-and-true three-pronged approach to taxation; and a successful effort to undo a prevailing wage law that dates back to the late 1800s.

In the corporate farming endeavor, the governor, through his proxies at the Kansas Department of Agriculture, sought to invite foreign farming operations to the state while stripping county commissioners of their right to reject or regulate such operations. The change would allow giant swine and cattle operations to locate any-

where in the state, while county residents and local leaders would have no right to recourse and no right to complain. A similar measure taken by the federal government would be, and has been, met with resistance and viewed as extreme and intrusive.

Only the outcry from county commissioners, who rightly saw the measure as a threat to home rule,

**Conservative**

con-ser-a-tive (kuh n-sur-vuh-tiv)

*adjective*

Holding to traditional attitudes and values and caution about change or innovation, typically in relation to politics or religion.

*noun*

A person who is averse to change and holds to traditional values and attitudes, typically in relation to politics.

**Liberal**

lib-er-al (lib-er-uh l)

*adjective*

Open to new behavior or opinions and willing to discard traditional values.

*noun*

A person of liberal views

Source: Oxford Dictionary

stalled the bill for a year. Also consider the prevailing wage legislation – which the governor, the Kansas Chamber of Commerce and government contract heavyweight Crossland Construction successfully pushed through this session.

This law didn't require local units of government to do a thing; it simply allowed local requirements for local government construction contracts. If cities and counties wanted to require contractors to pay a "prevailing wage" as a condition of winning a contract, the state had no say in the matter. Under the change approved this session, the state will now prohibit local governments from requiring contractors to pay a local prevailing wage.

That sort of intervention from the state fails the test of conservatism.

And then there's the governor's

grand experiment for Kansas taxation. Gov. Brownback envisions a Kansas free of income tax, which he believes will bring businesses and jobs to the state by the droves, which will in turn generate economic growth. Brownback isn't shy about his ambitions: He hopes Kansas will shine as an example to the country of what is possible when taxes are eliminated and state services minimized.

The history of Kansas' three-legged stool of taxation is long and impossible to misinterpret: In the early 1900s, Kansans demanded a state income tax after years of bearing the cost of state and local government through their property taxes – while transient opportunists used Kansas-financed infrastructures to extract the state's wealth.

Attempts to undo a nearly 100-year-old taxing structure brought about by public demand – regardless of its conservative label – is a change that tosses aside the traditional values of the people.

It's time stop wrapping radical ideas in the warm blanket of conservatism.

Kansas Conservatism is a way of life that can apply to voters across the political spectrum. Kansas Conservatism is an understanding that progress must be made, but that change can come slowly and thoughtfully so we can both move forward and preserve what we already have.

Those values and principles belong to Kansans, not a man who hopes to use this state to catapult him to the presidency. It doesn't belong to special interests that hope to grab as much wealth as they can on their way to a place with sunnier shores and calmer breezes. It doesn't belong to lawmakers who hope to cash in on fear and anger, nor does it belong to people who hope to pass off extremism as conservatism and expect us to be gullible enough to buy it.

Kansas, and its unique brand of conservatism, belongs to the farmer, who plants and waits to see what God will bring. It belongs to those who work daily to feed and shelter their families, who pray they're making the right decisions and hope their children will be safe and some day grow to have a better life.

Kansas does not belong to the radical or the extremist – it always has, and always will, belong to the people who proudly call this state home.

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## In Texas, black means future danger

If the state of Texas executes Duane Buck, it'll be because he is black.

Well, mainly it will be because in 1995, he shot his ex-girlfriend, Debra Gardner, and her friend, Kenneth Butler, to death at Gardner's Houston home, and also wounded his own stepsister, Phyllis Taylor. But it will also be because he's black.

In Texas, they have this rule: a jury contemplating the death penalty must evaluate the likelihood a defendant poses a future danger to the community. Jurors in Buck's trial were told he poses said danger because he is a black man.

Mind you, this came from a defense witness, whose ultimate finding was that Buck himself represented little danger. But, said psychologist Dr. Walter Quijano, "It's a sad commentary that minorities, Hispanics and black people, are overrepresented in the criminal justice system."

When asked by the prosecutor whether "the race factor, black, increases the future dangerousness," Quijano answered, "Yes."

So Buck sits on death row awaiting an appeals court ruling on his bid for a new sentencing hearing. Not a new trial, you understand. No one disputes his guilt – or the monstrosity of his crime. But about the sentence, there is plenty dispute, enough that his surviving victim and Linda Geffin, a prosecutor who helped convict him, both think he



Leonard Pitts

should get a new hearing. In 2000, Sen. John Cornyn, then Texas attorney general, identified six capital cases, including Buck's, in which Quijano gave similar testimony and conceded the state erred in allowing race to be used as a sentencing factor.

The other five defendants – all black or Hispanic – received new sentencing hearings. All were resentenced to death. Buck was denied a new hearing.

Why? Bucks' attorney, Christina Swarns, director of the Criminal Justice Project at the NAACP Legal Defense Fund, says the only explanation she's heard "is it's because Quijano was called as a defense witness. That would sound like a plausible explanation, if not that Quijano was called as a defense witness in two of the other cases in which they did concede error."

Sara Marie Kinney, a spokesperson for the Harris County DA, says there's a difference: in Buck's case, the offending testimony came on direct examination – "not on cross." In other words, the defense brought

it up first. Whatever. There is something viscerally ... wrong in relying upon so flimsy a rationale to justify so blatant an appeal to bias.

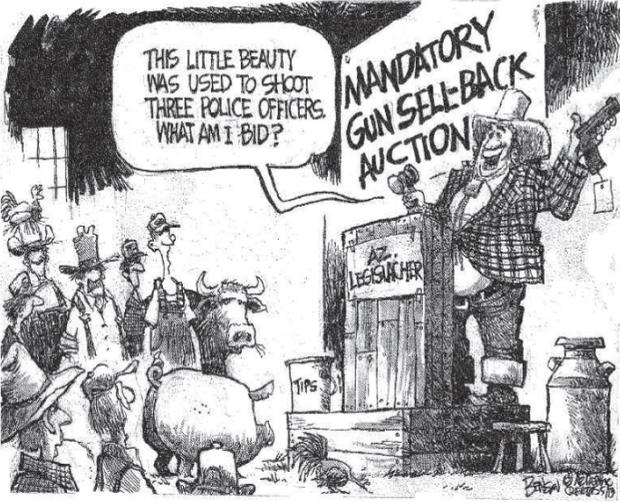
But race, argues Kinney, was not the only factor in the jury's decision. Buck, she notes, "was a violent offender who systematically killed these people. ... He checks all the boxes for the appropriate penalty being the death sentence."

Psychology professor John Monahan, whose writings Quijano cited among the "literature," told the Times his work supports no such conclusion. Race, he said, "plays at most an extremely small role" in predicting future violent acts.

Moreover, it is specious in the extreme to act as if poverty, crime and ignorance are some natural outgrowth of blackness. They are not. They were imposed upon black people by generations of oppressive law, policy and custom. To act as if they are somehow endemic to blackness is like accusing a woman of walking funny after you have cut off her feet.

What we have here, then, is but the latest example of a "justice" system bloodied and soiled by racial bias. If Duane Buck is killed, it will be in part because an "expert" stoked a jury's fear of the scary black man. That is not just wrong. It is obscene.

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Letters should be limited to 500 words. Poems, consumer complaints, business testimonials and group-written letters will not be accepted. Please sign your name and provide your address and a phone number so we may

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