

**Study Committee on
Firearms Safety and
Sport Shooting Ranges**

Annual Report

December 31, 2001

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Study Committee on Firearms Safety and Sport Shooting Ranges 2001 Annual Report

Background

To study and make findings and recommendations on the following issues: (1) promoting the safe operation of sport shooting ranges, including law enforcement ranges; (2) methods of mitigating the noise from outdoor shooting ranges; (3) resolving conflicts between shooting ranges and nearby landowners; (4) the feasibility of relocating shooting ranges; and (5) any other related issue the Committee considers to be necessary. The Committee shall report its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives by December 1, 2001 and transmit a copy of the report to the Director of the Arizona State Library, Archives and Public Records and the Secretary of State.

Membership

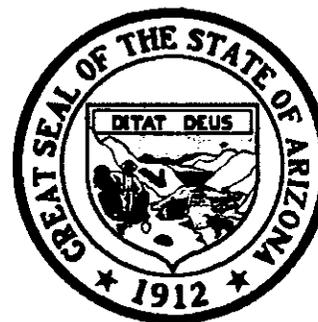
Senator Tom Smith, Chair
Senator Herb Guenther
Senator Darden Hamilton
Gerald Goode
Kyle Hindman
Charles McNeese

Representative Linda Gray
Representative Marilyn Jarrett
Representative Mark Maiorana
Leonard Gulotta
Shawn McLeran
Don Turner

Staff

Kerri Morey, Senate
Larry Chesley, House of Representatives

**Study Committee on Firearms
Safety and Sport Shooting Ranges**



**Annual Report
December 31, 2001**

Committee Members:

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ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

STUDY COMMITTEE ON FIREARMS SAFETY AND SPORT SHOOTING RANGES

Date: Thursday, January 4, 2001

Time: 11:00 a.m.

Place: Senate Hearing Room #1

AGENDA

1. Call to Order
2. Roll Call
3. Approval of Minutes
4. Presentation on Noise Abatement Issues by Arizona Game and Fish Department, Don Turner, Project Leader, Statewide Shooting Ranges
5. Presentation on Desert Trails Gun Club and Training Facility, Rick Batory, Owner
- 6. Review of Bill Draft
7. Public Testimony
8. Committee Discussion
9. Close of Study Committee for Interim 2000
10. Adjourn



Tom Smith, Chair

Members:

Senator Tom Smith, Chair
Senator Herb Guenther
Senator Darden Hamilton
Gerald Goode
Kyle Hindman
Charles McNeese

Representative Linda Gray
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ARIZONA STATE LEGISLATURE**JOINT LEGISLATIVE STUDY COMMITTEE ON FIREARMS SAFETY AND SPORT
SHOOTING RANGES**

**Minutes of the Meeting
Thursday, January 4, 2001
Senate Hearing Room 1 11:00 A.M.**

Members Present:

Senator Tom Smith, Chair
Senator Darden Hamilton
Gerald Goode
Charles McNeese

Representative Mark Maiorana
Leonard Gulotta
Shawn McLeran
Don Turner

Members Absent:

Senator Herb Guenther
Kyle Hindman

Representative Linda Gray
Representative Marilyn Jarrett

Staff:

Julie Szperling

Tape 1, Side A

Cochair Smith called the meeting to order at 11:25 a.m. and attendance was noted. For additional attendees, see Sign-In Sheet (Attachment A).

Approval of Minutes

The minutes for the meeting of October 18, 2000 were approved as distributed. The minutes from the November 16, 2000 meeting were corrected on page 3, strike 600,000 and insert 600. Without objection, the minutes for the November 16, 2000 meeting were approved as amended.

Presentation on Noise Abatement Issues by Arizona Game and Fish Department

Don Turner, Project Leader, Statewide Shooting Ranges, distributed a handout entitled "Sound and Noise" (Attachment B). His testimony came directly from the handout.

A video tape presentation entitled "Sound Attenuation", prepared by the National Association of Shooting Ranges was given.

Additionally, Mr. Turner distributed a handout entitled "Range Operator Liability: Noise, Nuisance and Zoning" (Attachment C) which he discovered in his research from the

National Shooting Range Symposium. He remarked that the handout outlines noise lawsuits and different state noise standards for shooting ranges.

Senator Smith commented that there appears to be three options for handling noise problems. The first is to move the range, which is the most expensive approach. The second is to close the range. The third is hiring a sound engineer to evaluate and design a noise abatement to satisfy the surrounding community.

Mr. Turner stated that is correct. He added that because Arizona has a lack of noise laws, there is no target to shoot for with abatement. He suggested that one of the issues that the Committee should investigate is some sort of noise establishment standards either by using federal standards or develop a new standard for the State. This would enable a noise engineer a set of guidelines and give the owners assurance that the money spent to meet these standards will eliminate any further noise complaints. Mr. Turner remarked that there are no noise standards in regard to shooting ranges for Arizona. He noted that some municipalities and counties have noise standards and some do not.

Elijah A. Cardon, Resident of Mesa, representing himself, distributed a letter dated December 14, 2000 that he sent to Senator Smith. He stated that he was concerned that the legislation that may be enacted could be regarded as "one shoe fits all." He noted that he has not studied all shooting ranges and that his comments are specifically in reference to the Rio Salado gun range. He remarked that the City of Mesa has designated property immediately adjacent to the gun range for residential development within two years in the City's zoning of other larger parcels in the area. Mr. Cardon stated that he hopes that whatever is enacted will take into consideration between shooting ranges that are immediately adjacent to residential areas versus shooting ranges that are located properly in industrial settings.

Mr. Cardon stated he is also concerned with the aspect of averaging sound. He admitted that he did not understand all there is to know about sound, but noted his concern that by using this as a tool, that there may be noise at unacceptable times, in a residential setting, that falls within the parameters of averaging sound. He stated that this question is simply a question of protecting private property rights.

Senator Smith stated that zero noise at the property line would not be a feasible solution because there is surface traffic noise, and air traffic noise that can not be completely eliminated. Mr. Cardon stated that compromises with this issue could be discussed. Senator Smith noted that last year a bill regarding outlandish noise levels was held in Committee and did not go through the process. Mr. Cardon expressed his appreciation of the work of the Legislators.

Senator Smith stated that there is no question that there is a problem with encroachment on the 103 shooting ranges in the state, eight of which are residentially encroached. He opined that shooting ranges need to be operational for law enforcement and to avoid people shooting their firearms out in the desert. He stated

that consideration needs to be given to protect the shooting ranges, while protecting the local communities that surround the ranges.

Mr. Goode complimented Mr. Cardon on his letter. Referring to page one, third paragraph in Attachment D, he commented that there are situations where the government should compete with private business, especially when private business is not involved or is not doing a good job, and as a result not working in the public's interest. Referring to page two, the third to last paragraph, he agreed that the U.S. Constitution, private property rights, and freedom from theft through land confiscation are important. He noted, however, the government has the right of public domain, which is also basic to the Constitution. This is not theft of public property, but rather it is land usage that is in the public interest. Mr. Goode noted that if State government provided locations that allowed shooting ranges to be surrounded by public land it would set a precedent that could be used by General Motors, or any other entity.

Mr. Cardon agreed with Mr. Goode's comments and remarked that his intent was to bring this situation to the table to be discussed. He stated that his comment regarding shooting ranges being surrounded by public land was directed more towards situations that would include the use of large bore guns and was a possible suggestion for law enforcement practice sessions that could not be handled in a normal shooting range.

Mr. McNeese remarked that Mr. Cardon opined that zoning for industrial areas for the placement of shooting ranges. He stated that Rio Salado was placed 25 years ago in an area that was zoned as an agricultural area. He stated that ranges can continue to be moved, but when zoning is changed, there will be times that residential zones will be affected. He opined that moving ranges is going to become expensive for the people who use the ranges, and if they are moved too far then people will stop traveling that distance and will start using the desert. That will create a more hazardous situation for residents. He stated that the practice of changing zones needs to be re-evaluated. He asked if Mr. Cardon knew why the rezoning of that area occurred.

Mr. Cardon stated that he attended some of the zoning meetings and reviewed some of the information. He stated that zoning was done by the City Counsel of Mesa and was done in conjunction with a master plan that was under development. He stated that the people of the State have the right to the enjoyment of private property and there should be reasonable safeguards against that. Referring to the Rio Salado shooting range, he opined that it might make immanent sense with respect to that particular facility, to move it because of the surrounding residential designation by the City of Mesa. He remarked that an alternative solution that would allow the Rio Salado shooting range to exist harmoniously with residential property would be acceptable as well. He stated that the current situation is incompatible with the zoning that the City of Mesa has designated for the general area.

Senator Smith suggested that the developer be responsible for the funds to accommodate the safety and acceptable noise abatements needed for the neighborhood.

Mr. Goode remarked that this type of practice is already in existence in the West Valley with developers having to build schools as well as developments, rather than having the new homeowners paying for the schools.

Referring to noise, Mr. Goode remarked that there is talk about closing Luke Air Force Base because of the aircraft noise. He noted that this base has been in existence for 65 years and it is the developer that is encroaching on the base.

Mr. Gulotta remarked that moving a shooting range is not an easy thing to do and the costs associated with this are tremendously expensive. He noted that there are a lot of barriers to moving recreational purposes such as shooting ranges into public land. He stated that a shooting range in Flagstaff was closed due to encroachment three to four years ago and has been working with the State Game and Fish Department along with the U.S. Forestry Service to put in a new facility twelve miles west of Flagstaff. He stated that in addition to a pending environmental impact statement, many different various issues will need to be addressed before the new facility could be completed. He remarked that suggesting that moving shooting ranges is not an instant fix, but rather it is a costly and timely venture.

Mr. Cardon remarked that he hoped the concept that it is the developers' problem is not adopted. He noted that the possibility that he, as a private property owner, would need to mitigate the gun range before building a house on his own property is indefensible.

Mr. McNeese commented that if a person knowingly buys property next to a shooting range and then wants the range to move what is to stop someone from buying property near Motorola and expect it to move to another larger industrial area.

Mr. Cardon stated that there are property owners in the immediate area of the Rio Salado gun range that have been property owners long before the gun range was in existence.

Mr. Turner stated the Committee is discovering that from all the ranges among the State, there is a potpourri of issues. He noted that in some circumstances, ranges that were built in the 1940's have had progress catch up to them. He noted that there are ranges that were built on government land and the government has sold the surrounding property to private owners. He remarked that these situations and others, in addition to finding solutions and assurances to both private property owners and shooting range operators, would need to be evaluated by the Committee.

Presentation on Desert Trails Gun Club and Training Facility

Rich Batory, Owner, Desert Trails Gun Club and Training Facility testified that he owns property in Tucson, next to Davis Mountain Air Force Base.

Mr. Batory noted that he and his wife emigrated from Poland 20 years ago and settled in Tucson. He worked for Pima County Sheriff's Office for 15 years as an instructor in firearms, and as an instructor for the National Rifle Association and for federal law enforcement training.

Mr. Batory stated that in addition to his range, there are four other shooting ranges in the area that are government owned, leased property for two outdoor ranges and the other two are indoor ranges. He noted that one of the ranges is for military use, the other three are law enforcement ranges. He explained that he purchased his property in 1998 and noted that it took a year to prepare all the studies necessary in addition to the safety plans and range rules. He stated that the studies became part of the development plan and was approved by the Pima County Attorney and the Pima County Zoning Commission. He explained that approximately one month into construction, the Air Force Base notified him that the gun range would pose a danger for low flying aircraft. He stated that the county then rescinded their permits for over a year. Mr. Batory noted that a few private homeowners that lived 1½ miles to 2 miles away from the range complained that they could not enjoy their Sunday morning coffee between 8:00 a.m. and 9:00 a.m. because of noise coming from his gun range. He noted that his facility is not open until 10:00 a.m. so the noise that is being heard must be coming from one of the other ranges. He noted that despite these problems, his facility is now open to the public and is in operation.

Mr. Batory stated that his range is the only privately owned and operated shooting range and it is the only safe shooting range in the neighborhood. He remarked that studies show that if an individual has to drive more than 20 minutes to a shooting range they will more than likely go to the desert instead. He remarked that the public needs safe shooting ranges because if something horrible happens during a "wildcat" shooting session State land will be closed.

Senator Smith commented that this Committee is working on ensuring that shooting ranges can prevail.

Mike Anable, Arizona State Land Commissioner, testified that his agency manages state trust land. He noted his reluctance to support the draft bill not because he is opposed to hunting or sighting in of weapons on state land, but because the passage of a bill like this would make an already difficult enforcement situation on state land much worse. He stated it is almost an everyday occurrence where "wildcat" shooting is being done on state land desert areas. There is no law on the books that legalizes that type of activity, which is the only reason his agency has the limited ability to get law enforcement to take action on the most egregious situations taking place. He noted that 99 per cent of the time, these actions are not a problem and citations are not issued. He stated that it is that one percent where individuals bring trash out in the desert to use as target practice and cause safety and environmental concerns, which creates the need to make policing of the situation allowable.

Mr. Anable stated that if a bill like this is passed, every one of those shooters will be able to use the excuse that they were sighting in their guns for hunting season and the need for enforcement in those instances will not happen.

Mr. Anable stated that the problem that this bill is supposed to fix is in theory only, as he was not aware of any successful prosecution of an individual for sighting in their weapon on state trust land. He stated that the unintended consequences of this bill would be the elimination of the ability to police this activity. He stated that additionally, there are technical problems in the bill with the definition of state land. Additionally, not withstanding section at the beginning, which make it now legal to do many things that are currently considered illegal now.

Senator Smith remarked that Senator Hamilton is sponsoring the bill, and this is the first time he has seen the bill. He stated that the subject of the bill should be thoroughly evaluated with input from that State Land Commission as well as all interested parties before drafting a bill.

Mr. Anable stated that it was his understanding that the meeting today was his opportunity to give his input for the development of the bill before the bill is presented in regular session for debate.

Mr. Gulotta remarked that there is already a court opinion on this issue with the decision of Arizona against John Lazarroni dated October 7, 1999. Mr. Anable noted that the court failed to convict the gentleman in that case. Mr. Gulotta stated that the opinion of the court was "the sighting of a rifle for accuracy before seeking game is an integral part of responsible hunting as would be scouting and various other activities in anticipation of taking wildlife. These activities shall not otherwise have other recreational uses. To limit hunters access through specific act of shooting an animal would be to discourage safe and humane hunting." Mr. Gulotta stated that was the ruling of the court in Pima County.

Mr. Anable stated that he was familiar with the case and remarked that there was no law on the books and the court found that person not guilty. He stated that if a bill like this is enacted into law, clearly sighting in weapons is legal, but so is any other instance where someone would claim that is what they were doing.

Mr. Gulotta stated that he is concerned that there is target shooting occurring on Bureau of Land Management land and U.S. Forestry land. He asked if there had been any studies that demonstrate whether this is detrimental to safety and the environment. Mr. Anable replied that there are dozens of illegal, unregulated shooting locations on State Trust Land, that his agency is aware of and from time to time they try to deter people from using them. He stated that these areas are ticking time bombs in terms of the liability for the State with the environmental cleanup of lead and other contaminants that are in those areas. He stated that as an agency, they support the direction the Committee is taking which is trying to create shooting ranges for people to use instead of the desert. He remarked that he was not aware of any studies.

Mr. McNeese stated that he agrees 100 per cent with the comments made by Mr. Anable. He remarked that Mr. Anable replied to the question of selling State land located next to shooting ranges to people for residential use, his concern was not the range as much as selling the trust land to make money. Mr. McNeese stated that the intent of the Committee is to ensure ranges stay open and ask the State Land agency assistance in dealing with these situations.

Mr. Anable remarked that it is the local government that is responsible for the zoning that allows residential areas to be built next to shooting ranges. He stated that currently this situation exists with the Ben Avery shooting range which is surrounded by state land. He stated that his agency is working hard with the city and Game and Fish to appropriately plan uses that will not jeopardize the range. He stated that he has a mandate to generate money from state lands and he cannot walk away from money making because of a range. He stated that it is his intent to avoid jeopardizing ranges if possible.

Mr. Anable remarked that there have been attempts to legalize the use of the illegal and unregulated shooting areas of state land by leasing the land to small shooting clubs. He noted that the insurer, the State of Arizona, frowns on the agency issuing a shooting range lease because of the liability issues, both personal and environmental, and therefore he tries to sell these lands. He noted that this is not an option for the small groups of clubs and remarked that it is difficult to encourage people to legitimize the illegal ranges or build safe ranges. Mr. Anable stated that although he is not trying to shut these groups down, he is trying to legitimize them with little success. He commented that this might be something the Committee considers.

Senator Smith remarked that this is probably the last meeting for 2000, but this issue will be evaluated further. He opined that the easiest part of the process has been the last few years in obtaining information and noted the most difficult part is the solution and implementation aspects.

Senator Smith stated that he would work with staff and the State Land Commission to develop recommendations to the problem and mail a copy to the members of the Committee for review. He noted that the members should mail back any changes or additional recommendations to those recommendations. He noted that there are two basic issues to this situation, the moving of ranges and noise abatement. He stated that there should be a process for each one of these issues.

Mr. McLeran agreed with the comments made by Mr. Anable and Mr. McNeese with the use of leasing state lands to address these problems.

Mr. Gulotta stated that Mr. Anable mentioned in the last meeting some property in the Tucson area that he was working with to develop a shooting range and noted that he was unable to find the range.

Mr. Anable stated that in his testimony, his recollection of the facts was slightly skewed. He stated that he had thought it was a private shooting range and opined that it is a municipal, sheriff or local police shooting range and is still in process.

Mr. Gulotta stated that the Sheriff's Office just opened a new one not far from Mr. Batory's range.

Senator Smith reiterated that he would be working with staff and Mr. Anable.

Without objection, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Tracey Moulton".

Tracey Moulton
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)

ARIZONA STATE LEGISLATURE

MEETING NOTICE OPEN TO THE PUBLIC

STUDY COMMITTEE ON FIREARMS SAFETY AND SPORT SHOOTING RANGES

DATE: Monday, September 24, 2001

TIME: 1:30 p.m.

PLACE: Senate Hearing Room 109 (Appropriations Room)

AGENDA

1. Call to Order
2. Review of Committee Charge – Research Staff
3. Status Report on Working Group
4. Presentation and Discussion of Proposal for Possible Committee Recommendations
5. Consideration of Recommendations
6. Adjourn

MEMBERS

Senator Tom Smith, Chairman
Senator Herb Guenther
Senator Darden C. Hamilton
Gerald Goode
Leonard Gulotta
Kyle Hindman

Representative Linda Gray
Representative Marilyn Jarrett
Representative Mark Maiorana
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9/12/01

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Proposed Recommendations of the Firearms Safety and Sport Shooting Range Committee

IDENTIFICATION OF PROBLEM:

- Sound produced at outdoor shooting ranges adjacent to housing developments.
- No state sound standards for compliance by shooting ranges, and no protection from complaints if standards are met.
- A state shooting range noise standard must supersede local noise ordinances.

PROPOSAL:

Legislation to be introduced during the 2002 legislative session that would accomplish the following:

1. Existing Shooting Ranges:

- If a shooting range was built in accordance with local zoning and ordinances and a zoning change is requested for adjacent or nearby property to allow for residential development or any development that includes a school, hotel, motel, hospital or church, the agency that changes the zoning shall provide for noise buffers and/or attenuation devices within the new development and/or assist the shooting range with noise attenuation devices and funding to meet the state standards. This can be accomplished by the jurisdiction itself or as a requirement for the developer to meet.

2. New Shooting Ranges:

- Shooting Ranges developed and put into operation after the effective date of this legislation shall comply with the outdoor shooting noise standard as provided by this legislation. If a shooting range meets these standards, no nuisance noise action or any other civil action regarding noise shall be brought against the shooting range. If a shooting range fails to meet this standard, the shooting range shall have one year to come into compliance with this standard. If within this time frame, compliance is not achieved, then actions may be brought against the shooting range. The noise standard shall supercede municipal, county or other state noise regulations.

3. Shooting Range Noise Standard:

- A shooting range must provide for noise attenuation so that noise emitted from a shooting range does not exceed the greater of the following two standards:
 - 1) 15 dBA over an hour time weighted average above ambient daytime neighborhood noise during the noisiest hour between 7 am to 10 pm and 15 dBA over a time-weighted average above ambient nighttime neighborhood noise during the noisiest hour between 10 pm to 7 am; or
 - 2) Noise emitted from an outdoor shooting range shall not exceed an Leq (h) of 64 dBA.

If the noise exceeds these standards, the noise will be abated so that the range is in compliance with the noise standards.

- Sound pressure measurements shall be taken 20 feet from the nearest occupied residence, school, hotel, motel, hospital or church. If there is no such land use but the property is zoned for these types of developments, the sound pressure measurements shall be taken 20 feet from the proposed location of the nearest planned residence, school, hotel, motel, hospital or church.
- Sound measurements shall be made on the A weighted fast response mode scale at a distance of 20 feet from the residence or occupied structure (school, hotel, motel, hospital or church) closest to the shooting range. This shall be measured on a one-hour time weighted average from 7 am to 10 pm (daytime hours) and 8-hour time weighted average from 10 pm to 7 am (nighttime hours). Measurements shall be made during the noisiest hour of peak use during the operation of the outdoor shooting range. Sound measurement shall be conducted in accordance with American National Standards Institute's standard methods ANSI S1.2-1962 (R1976) American National Standard Method for the physical measurement of sound, and ANSI S1.2-1971 (R1976) American National Standard Method for the measurement of sound pressure levels. A Type 1 sound meter meeting the requirements of ANSI S1.4-1971 shall be used. Any portion of the measurement procedures conducted on a range shall be in accordance with the range safety rules and regulation.

4. Shooting Range Operations:

- Prohibit shooting at outdoor ranges that are located in incompatibly zoned areas between the hours of 10:00 pm and 7:00 am except for ranges that provide training for law enforcement or military training. These ranges shall be required to notify nearby residents (within a one-mile radius of the shooting range) on a quarterly basis when and why shooting will be conducted at night. Noise levels between the hours of 10:00 pm and 7:00 am at these ranges must meet the established nighttime noise standard.

DEFINITIONS:

“ambient noise level” means the sound resulting from the natural and mechanical sources and human activity considered to be present in a particular area. This level does not include the analysis system's electrical noise and the noise from the shooting range.

“A- weighting” means a frequency-weighting network used to account for changes in sensitivity as a function of frequency.

“decibel” means the unit of measure for sound pressure level which denotes the ratio between two quantities that are proportional to power; the number of decibels is ten times the base ten logarithm of this ratio.

“dBA” means A-weighted decibels, which take into account human response to sound energy in different frequency bands.

“hourly A-weighted Leq” means the standard used to determine existing and future noise levels and noise impacts.

“Leq” means the equivalent energy level that is the steady state level that contains the same amount of sound energy as a time varying sound level for a given time period.

“Outdoor shooting range” means any shooting range that provides for the shooting of shotguns, rifles and pistols in an outdoor environment. Outdoor shooting range does not include ranges where the exclusive use is for archery and/or air guns.