

TESTIMONY OF PHILLIP COSBY SUPPORTING **HB 2221**  
State Director, American Family Action of Kansas and Missouri  
Kansas House Judiciary Committee 2015

Chairman Barker, and honorable members of the House Judiciary Committee, my name is Phillip Cosby. I am a native of Kansas, and State Director of the American Family Association / Action of KS & MO. I am honored to speak to you in support of HB 2221.

*Lines 31-36 In the case of grand juries impaneled pursuant to subsection (c), the judge or judges ordering the grand jury shall allow the person that filed the petition under the provisions of subsection (c)(2), and such person's attorney, to witness the instructions to the grand jury regarding its conduct and deliberations pursuant to subsection (c)(4).*

The Kansas statute 22-3001 on grand juries provides for three types in Section 1.

- (a) Grand Jury ordered by district judges
- (b) Grand Jury by District or County Attorney
- (c) Grand Jury by Citizen Petition

Of the three, the Citizen Grand Jury (CGJ) by petition is the oldest and closest to the original intent chiseled in the U.S. Constitution as a restraining mechanism for possible abuse by institutional power.

For the last twelve years I have had the privilege to partner with the Kansas legislature in rediscovering this instrument of the people. For most states it has been usurped by power, lost to history.

The CGJ is a link in the chain that restrains tyranny. The Citizens Grand Jury's purpose was never to serve as the lapdog of power, but a watchdog. Its heritage traces back exactly 800 years to the birth of the Magna Carta of 1215. The CGJ chafes against such phrases as "prosecutorial discretion" and "administrative relief". It was crafted to challenge the Kings indifference to the law and is much more than a tool for administrative efficiencies. A natural tension is present when citizens pursue a citizen's grand jury remedy. It implies that someone in authority is not doing their job, or worse.

**Why is this amendment needed? In preparation as the first witness for a recent grand jury by petition, I asked for the judges instructions. The reply I received was one of contempt and I was told via the court clerk that the petitioner would not be afforded the courtesy of instructions but the status of first witness only, nothing more.**

**I am not asking to write instructions. A petitioner needs to know the judges rules and if a contempt of the process is present during instruction, to discern that tone to jury members.**

Recent unrest out of Ferguson Missouri and New York City underscores lack of confidence the grand jury process is experiencing. For several years the Kansas legislature has been keen to this point of possible mischief of easily influenced grand juries and has provided remedy via this peoples process.

In the spirit of Abraham Lincoln's quote: *We the people are the rightful masters of both Congress and the courts, not to overthrow the Constitution but to overthrow the men who pervert the Constitution.*