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**Testimony to the House Judiciary Committee
In Opposition to HB2678
February 18, 2016**

Chairman John Barker and Members of the Committee on Judiciary,

Our Associations have serious reservations with HB2678 and oppose the bill moving forward. There are many indirect and unintended consequences to consider in this discussion.

Many of our agencies are currently engaging the KBI in these investigations. Other jurisdictions are utilizing regional investigative teams to investigate these events. A Prosecutor can currently request a Special Prosecutor or assistance from the Attorney General if desired. Investigations should be the purview of law enforcement and the Prosecutor of the jurisdiction where the offense is committed, just as for other crimes. Local Prosecutors are elected by the people within their jurisdiction and held accountable to those electorates, which drives the Prosecutor to be thorough in their review of the matter, regardless of who investigates the incident. If the case begins with the Attorney General conducting the investigation and prosecution, where is the appeal to a higher authority if the citizens are still dissatisfied with the outcome? When there is a law enforcement investigation and a review of the case by a Prosecutor, checks and balances are present. If both the investigation and the prosecution are placed under one office, those checks and balances are lost.

The time response is a critical issue, as HB2678 creates logistical burdens for the Attorney General's Investigators regarding time and travel to scenes. This hampers the investigation by burdening the law enforcement agencies providing scene and witness security. Will we be able to assure witness information is not tainted by communications between others during that extended period of time? It would also create issues dealing with the media, who are usually on the scene before an investigative team can respond. Many questions need to be considered - What will the local agencies be allowed to do at the initial onset of the event investigation? Will we simply hold the scene until the Attorney General Investigators arrive? What evidence will be compromised by that time delay? How long will a deceased person lay in the street causing further negative reaction by the community?

Regardless of which single agency is assigned by Statute to investigate, there is a lack of flexibility to assign investigators who are not associated with the agency or officers involved. For example, Page 1 Lines 5 and 6, requires "every" death of a person caused by a law enforcement officer to be investigated by one agency. Page 1, Lines 9 and 10, requires "a full, reasoned and independent investigation." Under HB2678, if one of the Attorney General's law enforcement officers, including a KBI agent, were involved in the death, how can it be an "independent" investigation?

We currently have challenges with KBI assistance in investigations, due to their low staffing levels. How many additional Investigators will the Attorney General need to accomplish this? It is impractical to believe current Investigators in the Attorney General's Office could effectively handle this type of investigation. Investigators hired for their expertise in fraud investigations, or other specialties handled by the Attorney General, may not have the expertise necessary for these investigations.

We believe Section 2 of HB2678 reveals the true thoughts behind this bill; a one sided view that law enforcement officers are assumed to be wrong and acting criminally whenever they take a life. You will note the only purpose of Section 2 is to collect data on the actions of law enforcement officers. This data does not accurately depict the whole story of officers defending themselves or others from attack. There is no effort to collect data on officer injuries from attacks, the number of times people physically resist law enforcement actions, or the number of those cases that do not result in injury or death to the offender the officer is dealing with. This data could be collected by adding new categories to the KBI and/or FBI annual Uniform Crime Report. Also numerous communities now have law enforcement citizens' advisory councils/boards which provide a check and balance with the community.

HB2678 requires more thought about how this would work and whether there are better ways to conduct these investigations. Just a few of the critical issues are timely response, staffing and expertise, and the need for forensic trained Crime Scene Investigators.

Sheriff Frank Denning
Kansas Sheriffs' Association Legislative Chair