

SCR1161, Opponent, In person Oral Testimony, Ellen Johnson/private citizen

This bill is an abomination to the system of checks and balances.

This bill silences judges and stops the most qualified and knowledgeable individuals we have at our disposal to guide us in the selection and retention of judges because this bill is intended as an affront to the laws as written by our legislature.

As such this bill is an affront to the legislature, thus undermining the legislature itself, each one of you sitting here before me, and the sanctity of the law.

Each and every legislator elected to office will become less relevant, and will be pitted against partisan judges at the end of the day.

Not only will the most vital component of our judicial system be silenced, our legislature will be silenced and rendered impotent by the passage of this amendment.

The people did elect you, and you matter now.

If this bill passes, you won't, and I need you to. A handful of partisan judges will rule as they please for whoever wherever has the biggest influence over the largest jurisdictions and the most cash to make it happen.

This probably isn't you, and it's certainly not who many of you represent let me tell you why.

I am, of course, deeply disheartened to see the house judiciary committee entertain an amendment to our state's constitution that would see those less populous counties in Kansas fall to injustice. So much of the population of this state is concentrated in metropolitan areas, and so much of the backbone of this state is in the small farming communities that don't have the numbers of people that could topple one elected official or another who fails to protect them under the law. Yet these people in these communities are so vitally important, they drive this state's economy and provide this state's identity. Let us not leave them to injustice by choosing to elect judges to the supreme court.

I do not believe that it is just those living in farm communities who would be injusticed, and I want to tell you a little story that can illustrate this point:

I was a victim of a heinous crime committed by a law enforcement officer. This crime was investigated by internal affairs, and the investigator, Patrick Pollock, told me point blank, he believed me. This crime was also investigated by the KBI with help from the FBI, and charges were forwarded to the district attorney, Charles Branson, who declined to file. An attorney told me his reasoning for this, but I'm not stupid. Anyone sitting on the committee for the Judiciary ought be aware of the extremely high conviction rate for crimes reported by the KBI and FBI.

So what gives? The person who committed this crime is the daughter of a police chief in a small town, that by my estimation can carry as much or more than ten percent of the vote in that county, and who would want to anger such a man and possibly lose that vote, their job, and their lively hood? Not an elected District Attorney, apparently.

Eventually he left office and was replaced by another elected DA who swore to protect women from crimes such as this, but the person who did this to to me, and their Daddy, are still the same people in the same town and I am just one vote, I do not nor have I ever had any sort of great power where thousands of votes are cast, and that DA also declined to file, for different reasons, likewise baseless, against the interest of the people and to the detriment of justice.

This happened a long time ago, and I am grateful to the legislature for passing a law that abolished the statute of limitations for this crime. I will never stop trying for justice, because someone has to protect those who come after me from this same fate, I never want it to happen to anyone again.

It is unfortunate that just a few thousand votes could convince someone sworn to bring justice to the people, to sweep a heinous crime like this under the rug.

I want to bring up, as further evidence of this, the fact that the sheriff elect at that time, Kenneth McGovern, lied about me in a news paper article. I was frustrated, I was frightened, and my heart was tortured by the thought that anyone else would have to suffer this way, so I went to the Lawrence Journal World, anonymously, hoping that if nobody else would hold anyone accountable, the newspaper would. They tried their best, and Shaun Hittle wrote a story about it and interviewed McGovern and McGovern had told him that he couldn't give him any information because for all he knew I was just a disgruntled person spreading lies. He knew better. Internal affairs knew better, and told him as much. The KBI knew better. FBI knew better.

But none of this expertise can sway a man or woman elected to his post and sworn to protect me under the law more than a couple thousand votes.

This injustice is unacceptable. Please vote against this bill.

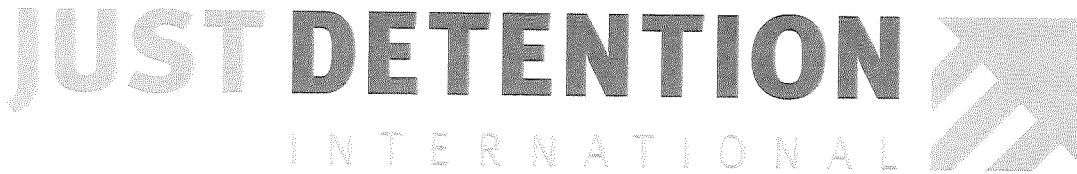
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MEDIA

Douglas County Sheriff's Office denies request for information about alleged assault

SHAUN HITTLE AUGUST 15, 2012 LAWRENCE JOURNAL-WORLD

For the past month, the Journal-World has been trying to get more information about a complaint from a former Douglas County Jail inmate alleging that she was repeatedly sexually assaulted by a deputy at the jail. However, Douglas County Sheriff's Office officials have declined to provide further information about the case, including the denial of an open records request.

Here's a recap of the case, and the responses the Journal-World received:

- In late June, a woman, who asked that her name not be used, told the Journal-

World she was sexually assaulted multiple times by a guard in 2010 while an inmate at the jail. The woman said these assaults occurred during routine pat-downs and included fondling of genitalia and sexual penetration. The woman made a formal complaint to the sheriff's office in 2011, but the allegations were deemed "not sustained" by the sheriff's office. The woman said she contacted the Journal-World because she was concerned such assaults could still be happening in the jail.

- We contacted sheriff's office officials, who confirmed such a complaint was reported and investigated. The sheriff's office denied an open records request for the completed investigative report of the case, citing a discretionary exemption in the Kansas Open Records Act, identifying the report as a "personnel" record. Officials referred us to information provided to the Journal-World in 2011, when we published a story about internal affairs complaints made to area police departments. The complaint by the woman was summarized by the sheriff's office as follows:

"Inmate complained that inmate was touched inappropriately during 'pat-down' search. Not sustained."

- We asked the sheriff's office if a third party had been contacted about the allegations, such as the Kansas Attorney General's Office, which has authority to investigate alleged crimes committed by law enforcement in the state. However, the sheriff's office denied this information request.

Jeff Wagaman, a spokesman for the Attorney General's Office, said that office could not "comment, confirm or deny the existence of an investigation of a case unless it has reached a public stage of the proceedings." Douglas County District Attorney Charles Branson said his office had not been contacted about the case, something that would typically only occur if law enforcement believes there is probable cause that a crime was committed.

- Because the complaint alleged a sexual assault, we asked the sheriff's office if the alleged victim's report prompted a criminal complaint, but that request was also

denied.

- Sheriff Ken McGovern wrote a letter to the Journal-World, outlining the sheriff's office's process for handling complaints against officers, which includes referral to the Internal Affairs Division. That division is "not in the chain of command and do not report to any employee who is under investigation." McGovern said that such complaints can be handled in a variety of ways, and can be forwarded to the District Attorney's Office or another law enforcement agency, if appropriate. But if the "investigation discovers no misconduct, the investigation concludes." McGovern said his decision not to release more information was based on protecting the alleged victim, as well as employees who may have been falsely accused.

"The sheriff's office also wants to protect its employees who did nothing wrong other than get on the wrong side of an inmate, criminal defendant or other citizen," McGovern said.

The city's process

For the past several years, the Lawrence Police Department has denied similar open records

(<http://www2.ljworld.com/news/2011/nov/06/police-chief-defends-keeping-details-about-complai/>) requests by the Journal-World for internal affairs documents, also citing the personnel exemption in the Kansas Open Records Act.

The Lawrence police, however, provide the City Commission with summaries of internal complaint investigations twice per year, but that isn't the case at the county, said County Commissioner Mike Gaughan. A Journal-World email request for comment on the case was "the first we'd heard of" the sexual assault allegations, Gaughan said.

When asked about the possibility of instituting a process for briefing county commissioners, like the city has, Gaughan said, "Some annual reporting would be consistent with the relationship we have" with the sheriff's office.

Sgt. Steve Lewis, a sheriff's office spokesman, said the office would be open to providing internal affairs case summaries to county commissioners if asked.

But requiring more information, or monitoring internal affairs investigations within the sheriff's office, falls outside the powers of the County Commission, said Craig Weinaug, Douglas County administrator.

"Elected officials pretty much have full authority," he said. Any decision to share information about internal affairs investigations "would be the sheriff's call," Weinaug said.

Though they may not have been briefed or consulted on internal affairs cases, Weinaug said his past experiences with the sheriff have shown that "he's always dealt with these situations appropriately."

But in cases of potential misconduct, law enforcement should provide the public with enough information to show the case was handled properly, said Ken Bunting, executive director of the National Freedom of Information Coalition.

"You can't do that based on the information you've been provided" in this case, Bunting said.

And there's an inherent conflict of interest when agencies investigate misconduct within their own organization, said Linda McFarlane, deputy executive director of Just Detention International, a nonprofit that advocates for a reduction of abuse within jails and prisons.

That's why her organization advocates for referring sexual assault allegations to neutral third parties, such as a state attorney general's

office.

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UPDATES

"In good models of oversight, **sign up**'s always an outside agency" that investigates abuse allegations against law enforcement, McFarlane said.

Original post: <http://www2.ljworld.com/news/2012/aug/15/douglas-county-sheriffs-office-denies-request-info/> ([HTTPS://JUSTDETENTION.ORG/DONATE](https://justdetention.org/donate))
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