



Kansas County & District Attorneys Association

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To: Hon. Chairman King
From: Barry Wilkerson, V.P. KCDA
Riley County Attorney
Date: February 12, 2013

Re: Neutral testimony on SB 66

Chairman King and members of the Senate Judiciary Committee:

Thank you for the opportunity to submit testimony on SB 66. My name is Barry Wilkerson and I am the Riley County Attorney and a member of the Kansas County and District Attorneys Association Board of Directors. More importantly, I am the father of two daughters, Andrea and Jessica.

The KCDA does not oppose the information being sought in SB 66 or disclosure to the public. The KCDA would offer proposed amendments to the process of making that information public.

I have been prosecuting since August 1990, and prosecuted my first sex crime against a child in 1992. Thomas Adams, who had been convicted on four previous occasions for criminal assaults against male children, was the defendant. He had been paroled from prison on four prior occasions. Since 2005 when I became the Riley County Attorney, I have prosecuted serial rapist Tysen Hampton and Tony Lewis; Chad Lemon a rapist with a criminal past who was on probation at the time of the rape offense; Ben Hinchsliff on 77 counts of rape and aggravated criminal sodomy on his daughter. I also convicted killers Kevin Hernandez and Luis Aguirre, the later of whom killed his ex-girlfriend and the couple's 13 month old child. (Aguirre was convicted of Capital murder but the jury gave him life in prison). All of the above will die in prison.

The above cases along with many others took an extraordinary amount of time to prepare - filing motions; arguing motions; and preparing witnesses and myself for trial. Senate Bill 66, in its current form will reduce the amount of time I have to prosecute and will impact all five (5) of my assistants in the Riley County Attorney's Office. A legal secretary cannot be expected to prepare an accurate report. Each attorney in my office will be required to track the information desired in SB 66. Instead of working on the prosecution of cases they will spend their time tracking statistical information.

In discussions regarding SB 66, it is clear the Sponsor of SB 66 does not want to take me or other prosecutors away from the courtroom. I believe with some modifications we can achieve the information sharing goals of the Sponsor and maintain the goals of prosecutors. The KCDAA would propose some changes or amendments to the bill.

The information being sought is currently available through the Office of Judicial Administration and the District Court Clerk's Office as well as the Sentencing Commission. The information in the District Court Clerk's Office will have the terms of the plea agreement, as they are part of the public record. Further, court rooms are open to the public and the files are open for inspection by the public. There is built in transparency already within the criminal justice system to the extent the information is available, but admittedly it can be awkward and difficult to compile. Getting that information to the public in a manageable fashion is the issue.

As opposed to 105 counties filing a monthly report with the Attorney General's Office, then have Attorney General's office review and forward the information, the KCDAA would propose the AG and the KBI be given the resources and responsibility for compiling the information. This information is available electronically to the Kansas Attorney General's Office and the KBI. We ask this committee to amend SB 66. Here is why we believe this is achievable with necessary resources:

All arrest should currently be sent to the Kansas Bureau of Investigations. The prosecutor's decision to charge should include all court filings and dispositions of adult and juvenile cases and are available through Full Court, an electronic reporting system that reflects the progress of the cases that are filed. Additionally, information on dispositions are available through the sentencing commission. The information is out there but stored in different electronic venues. The goal would be to create a system to electronically compile and make available all information so that a monthly report for each county could be generated.

The Kansas County and District Attorney's Association asks that amendments be made to the bill to require the KBI and the AG to provide the monthly reports and that they receive the necessary financial assistant to accomplish this task. The KCDAA would propose a working group, with bill Sponsor, the KBI, Attorney General and a member of the KCDAA to work out the details of all the information being sought.

Summary:

The KCDAA believes the bill Sponsor sincerely wants to make our streets safer and wants the public to have a better understanding of how the criminal justice system works. The bill Sponsor and the KCDAA prefers prosecutors spend their time prosecuting criminals. I do not believe the bill Sponsor wants Assistant CA's and DA's and in the end, either the District Attorney or the County Attorney spending more time with the administrative duty of preparing a report of information that is already available to the public as opposed to preparing cases for hearing or trial or drafting charges. While the prosecutors spend time every week reviewing reports to be filed, whether they be traffic, criminal, juvenile or Child in Need of Care – in its current form SB 66 would require that the last week of each month, instead of reviewing police

reports for charging decisions, prosecutors time will be spent preparing their reports to submit to the DA or CA as well as preparing for cases already filed.

While it will not be the major cases, generally, that will not get filed from the general public's standpoint, it is my experience with citizens, that the most serious case in the office is the one in which they are a victim, whether that be a criminal damage to property, theft, burglary, etc.

I want to end by saying the bill Sponsor has the same ultimate goal as does the KCDA - improving public safety - and for that we greatly respect his efforts towards that end. The KCDA is committed to improving and enhancing the ability and accountability of all prosecutors in the State of Kansas and we are committed even more to public safety and getting dangerous people off the streets. In the end that is where we wish to spend our limited resources - getting dangerous people off the streets and into the Department of Corrections. The information in SB 66 and then some is available if someone wants the information, either through OJA, the Sentencing Commission or the local District Court Clerk's Office. However County and District Attorney's Office are not equipped or have the financial and electronic resources to compile the data in a format that is being sought in the current form of SB 66. We just believe this task should fall upon a state agency such as the Kansas Attorney General and the KBI as opposed to the County and District Attorneys.

I wish to thank the bill Sponsor for bringing this matter before the committee and thank you all for allowing me to testify today. We ask that the committee take time to work on the KCDA's suggested changes. Thank you for your time and I will be happy to answer any questions.

Respectfully submitted,

Barry Wilkerson
KCDA Vice President
Riley County Attorney