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STEPHEN T. ARIAGNO ♦ KURT KERNS ♦ STEVEN D. MANK ♦ PHILIP R. WHITE

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To: House Judiciary Committee

From: Steve Ariagno

Date: January 10, 2016

Subject: H.B. 2289

Chairman Barker and Members of the Committee:

Thank you for giving this opportunity to provide information in support of HB 2289. I have been practicing law for more than twenty years within the state of Kansas. I have both prosecuted and defended DUI cases. I am a former president of the Wichita Bar Association. For many of my clients, driving privileges are vital to being able to survive, support their families and continue to live in our rural communities. In fact, the jail time, fines and treatment consequences of a conviction for DUI are of much lesser importance to them than the ability to drive. Unfortunately, over the years, the most basic constitutional and due process considerations have been eroded with regard to driver's license hearings. H.B. 2289 is designed to restore those protections to a minimum level of fairness.

Driver's License hearings were intended to provide due process for individuals from whom the state is seeking to take driving privileges. The obvious idea is to allow citizens of Kansas to be able to contest situations in which officer's did not follow established procedures to ensure accurate test results or have acted in a manner that is capricious. The current law requires that concerned citizens can have access to videotapes of their contact with law enforcement. It does not allow access to police reports. Unfortunately far too many law enforcement agencies are not equipped to video tape their citizen contact. Additionally sometimes video cameras aren't functioning or do not provide access to the entire contact. Access to law enforcement reports helps to fill those gaps. One of our most basic American ideals is fundamental fairness. Surely, having access to the reports of the officer's allegations prior to examining him about his observations helps further that ideal. H.B. 2289 would do that.

H.B. 2289 also fixes an error that has existed since the creation of the Driver's License hearing process. Obviously we can't provide fairness and due process if law enforcement is allowed to capitalize on what may be a very clearly illegal stop. At one point that constitutional protection was presumed at the administrative hearings. Ultimately, that protection was stripped away by the appellate courts because it was not explicitly included in the statutory scheme. H.B. 2289 restores what the legislature undoubtedly thought was a given, a protection from unconstitutional stops.

Thank you for your consideration of this testimony.

Sincerely,



Stephen T. Ariagno