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February 26, 2016

Senate Judiciary Committee
Kansas Senate
Topeka, KS 66612

RE: House Bill 2289

Chairman and Members of the Committee:

I submit the following in support of House Bill 2289. It is my position that enactment of the bill will ensure the Constitutional rights of the citizens of Kansas.

I have practiced law in the Manhattan region for approximately 10 years. In that time, I have practiced solely in the field of criminal defense. Being in a location with a high number of college and military people, a great deal of my time is spent on D.U.I. cases. While ensuring our roads and highways remain safe, we must also ensure we do the same for the rights secured under the Constitutions of Kansas and the United States. Enactment of this bill will ensure those rights in a number of ways.

First, under the current statutes, a Kansas licensed driver does not have the right to obtain police reports prior to an administrative hearing to determine whether his or her driving privileges may be suspended after a D.U.I. arrest. With the limited number of issues outlined in K.S.A. 8-1020, those that can be raised in an administrative hearing, it is imperative for a licensee to have access to information which may show that the statutory requirements have not been met. Personally, I have clients arrested for D.U.I. on Ft. Riley with charges not being brought for months due to the process at the U.S. District Court. The changes proposed to K.S.A. 8-1020(f) allowing the licensee or his attorney to inspect copies of police reports would ensure the licensee access to vital information.

Next, but in my view most importantly, requiring a law enforcement officer to have a reasonable suspicion for a traffic stop before the Kansas Driver Control Bureau may take action against a licensee's driving privileges would fix a gigantic constitutional gap created by *Martin v. KDR*, 285 Kan. 625 (2008). I simply cannot put into words any better than Kansas Supreme Court Justice Eric Rosen how this amendment would protect citizens when he wrote the dissent to the *Martin* case.

> "By requiring a lawful vehicle stop as a prerequisite for the imposition of a driver's license suspension pursuant to K.S.A. 8-1020(b)(2) we establish a consistent and logical enforcement mechanism that protects our citizens'

> constitutional rights to be free of unlawful government seizures and at the same time effectuates the strict and harsh penalties against drunk driving as enacted by our legislature. *Martin*, 285 Kan. at 649.

The fact it is possible for evidence to be suppressed in a criminal case, but a license suspended in an administrative setting, based upon the same unconstitutional stopping of a vehicle, is a legal oddity that must be corrected. Kansas has a long and proud history of ensuring the rights of its citizens. By ensuring law enforcement is required to follow the same constitutional requirements in an administrative setting, as in a criminal setting, the rights of the citizens of Kansas will be protected.

Very truly yours,

JEREMIAH L. PLATT
For the Firm.

JP: ns