



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdaa.org

To: House Judiciary Committee
From: Kim T Parker
Prosecutor Coordinator
Kansas County and District Attorney's Association
Date: February 18, 2020

Re: Opponent Testimony House Bill No. 2424

Chairman Patton and Members of the House Judiciary.

Thank you for the opportunity to present testimony opposing HB2424. As servants of the public with duties, obligations and ethical responsibilities to protect public safety, ensure the rights of all citizens and the fair and justice administration of the justice system, we respectfully request that this offered piece of legislation and its multiple proposals be sent to our currently established Best Practices Committee to deliberate and consider industry standards and best practices and report back to this body. We currently have a working group that works at a state, local and national levels to establish Best Prosecution and Law Enforcement Practices. The use of deadly force by law enforcement is a critical and important issue for all of our citizens and a very personal and grave matter for individuals and families involved of both the deceased and law enforcement.

In the review of this bill our elected County and District Attorneys have identified some concerns with this bill that we are bringing to your attention. We believe create confusion and serve also would serve to damage fair and just investigative and review procedures and practices not being implemented in our state.

Concern #1. Subsection (c)(1) To have an outside agency conduct the investigation may on its face sound like a good idea until you think about the reality. In Wichita for instance, if WPD is involved in an Officer Involved Shooting, exactly what "outside agency," would show up, collect shell casings, separate witnesses, have sufficient staff to canvass the neighborhood, look for surveillance cameras from surrounding businesses and houses and then interview officers and civilian

witnesses. WPD has 6 dedicated homicide detectives (plus an Lt.) and another 6 in the gang unit (with a Lt). All told we have roughly 100 detectives across all the units in WPD. The Sedgwick County SO has a total of 14 detectives who are also working every other type of case that occurs in the county. There is no way for another agency to muster the manpower to conduct the investigation. They typically bring in a couple KBI agents or an SO detective to help with the interviews of witnesses, but the SO does not have the manpower to conduct a full investigation of every WPD.

Concern #2 Subsection (c)(2) requires a statement of charges by the law enforcement agency. It is the prosecutor who files the charge not the investigating agency. This also raises a practical problem that law enforcement provides legal discovery not summary reports to the District Attorney.

Concern #3 Section (3)(B). provide a written report in 30 days is arbitrary time frame that good dangerously impede careful investigation practices. Most often the investigation is has not been concluded and you could get caught saying things that are later proven wrong or inaccurate. It is more important to have a thorough investigation than a rushed investigation.

Concern #4 Section (3)(c) Same holds true as above Concern #3 for the 60 day status update.

Concern #5 Section (3) (d) Significant redaction of any report would be required to protect the privacy of individuals guaranteed by law.

Concern#6 Section(3) (d) As a strong potential of impacting witnesses willingness to give truthful statements if it becomes public on the web or in social media or other publications before the investigation is thoughtfully and fully complete and reviewed in conjunction with the applicable laws..

Concern#7 The public release is also potentially a ethics problem for prosecutors under Supreme Court Rule 3.6 which dictates what can be said publicly and 3.8 which applies to prosecutors specifically and their exercise of reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case as to what can be publicly disseminated from making any extra-judicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.”

We stand committed to fair and impartial justice. Thank you for your consideration.

Kim T Parker

Prosecutor Coordinator

On behalf of the Kansas County and District Attorneys Association

kteresep@gmail.com

