

February 16, 2020

To: Chairman Fred Patton, House Judiciary Committee  
From: Mark Schmid, President, JOCO United  
RE: Opposition Testimony against HB 2667

Mr. Chairman and Members of the Committee:

My name is Mark Schmid and I am appearing on behalf of JOCO United, to testify in opposition to HB 2667.

JOCO United is a citizen advocacy group formed following the shooting death of John Albers by an officer of the Overland Park Police Department. We are committed to developing and fostering partnerships between law enforcement, government and the community, to improve public safety, transparency and the response to mental health issues.

It is my belief that the proposed provisions of HB 2667 do little to change the status quo and are ineffective in providing the transparency that is required in officer-involved death cases, in order to foster trust in the investigative process and prosecutorial function.

Section 1(e) of HB2667 provides in part:

“...the county or district attorney shall prepare a written summary report summarizing the investigative report required by this section, and the reasoning for the county or district attorney's determination. Such summary report, with redactions of information otherwise protected from disclosure, shall be released. No part of such investigative report shall be made public unless the report has first been made available for inspection to the decedent's next of kin, if known.”

No definition is provided in HB 2667 for the term, “written summary report,” nor is there any indication of what would constitute a sufficient “summarization” of the investigative report. These omissions are critical.

Specific examples below of what District Attorneys in Kansas have previously released in high profile cases of Officer Involved-Deaths, clearly illustrate the problem.

In January of 2018, seventeen-year-old John Albers was shot and killed by an officer of the Overland Park Police Department. Thereafter, Johnson County District Attorney released what was titled, “Media Fact Sheet-Press Conference,” purporting to be a “SUMMARY OF FACTS AND FINDINGS.” Such document was two-and one-half pages in length and made no specific references to the investigative report findings of the Johnson County Officer Involved Shooting Investigation Team.

At the press conference, edited portions of only two of the four available videos taken by the dashboard cameras of the four police vehicles dispatched to the scene were made

available to the public. Additionally, District Attorney Howe made no mention of, nor did he release, three additional videos taken by a Ring doorbell camera located from across the street from the Albers home.

Finally, District Attorney Howe's "Media Fact Sheet" made no mention of the effort made to reconstruct the positioning of the minivan driven by John Albers in relation to the officer involved and in connection with the shooting sequence.

Contrast District Attorney Howe's de minimis written summary report with that of Sedgwick County District Attorney Mark Bennett in connection with the officer involved shooting death of Andrew Finch. Although no more factually complicated than the Albers case, the Finch report was forty-two pages in length and contained direct references to the underlying investigative report. Photos and measurements were included and multiple videos were released.

The difference in treatment of these two officer-involved shooting situations, clearly illustrates the problem with the proposed statute. There are summaries and then there are summaries. HB 2667 leaves it totally up to the District Attorney as to what information will, or will not, be included in the written summary report.

At the end of the day, the best evidence of what took place in officer-involved death cases is the investigative report itself, not written summaries. Furthermore, there are no compelling reasons for the investigative report not to be released.

There are additional reasons to reject HB 2667.

- HB 2667 appears to exempt from disclosure personnel records created as a part of the officer-involved death investigation would be subject to disclosure. (Page 1, lns. 8-10)
- HB 2667 excludes the investigation of Officer-involved deaths where a motor vehicle accident is involved. (Page 1, lns. 27-28)
- HB 2667 only requires one outside investigating agency, rather than two, to investigate an officer-involved death. (Page 2, lns. 1-4)

Ladies and gentlemen, with the above in mind, I would suggest to you that HB 2667 is a perfect example of form over substance. Although it pays lip service to the concept of transparency, it totally fails to achieve it in an area where it is so important for public trust. I urge you to reject it.

Thank you for the opportunity of presenting this testimony today.

Mark Schmid  
President JOCO United