



Kansas State Lodge

Fraternal Order of Police

Testimony to the
House Committee on Judiciary
House Bill 2424
Mik Shanks, President
Kansas State Lodge of the Fraternal Order of Police
Testimony in Opposition
February 18, 2020

Chairman Patton and Members of the Committee thank you for allowing my written testimony to be entered into the record in opposition of House Bill 2424.

My name is Mik Shanks and I am the President of the Kansas State Lodge of the Fraternal Order of Police. On behalf of the 3,900 members of the largest police organization in the State of Kansas, we oppose the passage of this bill.

House Bill 2424 has two main components that I would like to address: 1.) A requirement that all Officer Involve Shootings be investigated by an outside entity; and, 2.) Public dissemination of the results of the OIS investigation if the applicable District Attorney determines the officer's actions were justified. I will briefly address each of these issues separately.

My organization and its members believe that it is unnecessary and potentially legally problematic to mandate which entity investigates these critical incidents. Many departments, especially those which are smaller and have less investigative resources, seek assistance from other organizations to investigate a critical incident involving one of their officers. However, other large departments in the state have the investigative expertise and resources to perform thorough and complete investigations, thus eliminating the need to ask for such outside assistance. These larger departments have dedicated professional detectives are trained in use of force investigations and they oversee these critical incident investigations. I am not aware of any instance in Kansas in which it has been suggested that an investigation was anything less than complete, thorough and objective. As such, we believe that this mandate is unnecessary and unwarranted.

Importantly, all critical incident investigations are reviewed by the District Attorney for the jurisdiction where the incident occurs. These independent and elected District Attorneys have the authority to request additional steps be taken if they feel the investigation is incomplete or biased. To my knowledge this has never occurred and is a testament to the fact that all officer involved shooting investigations, whether external or internal, are thorough, complete and objective.

One final point, we believe that such a state mandate as to Department's internal policies and decisions is another example of extraordinary governmental overreach. These issues should be decided by the elected officials and representatives of these municipalities who are accountable to their community. The State should not interfere on issues that should be left to the local municipalities and their constituents to decide.



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The second issue pertains to the public unfettered disclosure of investigative documents when the District Attorney determines that the officer's actions were legally justified. Again, the State FOP sees serious problems with these carte blanc disclosures.

With few exceptions, information in a typical criminal case is never disclosed when it is determined that no charges are warranted against an individual. This is done for obvious reasons. The involved individual is presumed innocent and the disclosure of investigative would all but eviscerate that legal and sacrosanct presumption. When such documents are disclosed to the public that individual, who has done nothing wrong, will likely be subjected to unfair public flogging simply because they were investigated. We have safeguard in place to protect those affected individuals, and we should not employ a different and more devastating standard for law enforcement officers. Instead, officers should be afforded the same level of privacy protection that all other citizens enjoy.

Keeping that in mind, the public disclosure of this information will inevitably result in the officer being publicly and unfairly stigmatized even when he or she was cleared of any wrongdoing. Online searches of the officer's name would forever connect the officer to his or her involvement in the critical incident, and this could have a negative impact on the officer personally and professionally. These types of disclosures have the potential of breaking up families and destroying careers. It also effects another issue of grave importance to the State FOP – that is the rise of police suicides across America. I dare say this type of unnecessary disclosure may very well contribute to this already troubling problem. It would be a modern day "scarlet letter" for the officer who the District Attorney has determined did nothing wrong.

Finally, there are other means for interest parties to obtain this information. Our federal and state laws provide a meaningful mechanism to seek redress as a result of a critical incident. The Court procedures allow those interest parties to obtain such information under the oversight of professional members of the judiciary. And, there are rules in place governing such information that takes into account the privacy interests of all affected parties. We believe that these judicial mechanisms are sufficient to address the issue of disclosure and they alleviate the need for any duplicative state legislation such as proposed in House Bill 2424

For all these reasons, the FOP strongly opposes the passage of this House Bill 2424.

Sincerely,

Mik Shanks