



Kansas Bureau of Investigation

Kirk Thompson
Director

Derek Schmidt
Attorney General

Before the Special Committee on Judiciary
Testimony in Support of
Proposed Procedural Changes to K.S.A. 21-6620 (13rs2465)
Kyle Smith
Deputy Director, Assistant Attorney General
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Chairman Kinzer and Members of the Committee,

On behalf of Director Kirk Thompson and the men and women of the KBI I thank you for holding this hearing to address a vitally important and time sensitive problem in our criminal code.

I will not reiterate the basics that are known to everyone but rather focus on observations from the investigative and law enforcement perspective. And there is no purpose in complaining about the decision in *Alleyne v U.S.*, or the U.S. Supreme Court's habit of reversing precedents, for, as Justice Robert Jackson once said of that court, "We are not final because we are infallible, but we are infallible only because we are final."

So from an investigative view point, why do we need this legislation and why quickly?

Assuming that the will of the people, through their duly elected legislature, is expressed by setting serious penalties for intentional, premeditated murders with aggravating circumstances, then inaction thwarts the will of the people of Kansas and the legislature's deliberate efforts to make such a policy.

I can think of 4 or 5 homicide cases, unusually brutal homicides, murder for hire, murders of witnesses, currently pending before Kansas courts that, absent this bill being enacted, will likely result in a sad disparity in consequences amounting to a miscarriage of justice. These victims, and their families, deserve better. As long as we limit this bill to procedural changes, this legislation can apply to those cases.

Second, I fear that this judicially imposed disruption of our sentencing process could actually encourage murders. For example, a child rapist, already facing 35 years in prison for a Jessica's law violation, might be tempted to murder the victim in an attempt to eliminate the victim to improve his chances of escaping punishment, particularly when the penalty for murder is actually less than what he is already facing.

Third, I do not believe that strong penalties always deter criminals. But sometimes they do.

On behalf of the KBI I would urge your support and quick action.

I would be happy to stand for questions.