



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

July 21, 1975

ATTORNEY GENERAL OPINION NO. 75- 302

The Honorable Michael G. Glover
State Representative
1308 Summit
Lawrence, Kansas 66044

Re: Juries--Grand Jury--Procedure for Calling

Synopsis: The petition requirement of K.S.A. 22-3001(a) is not unconstitutional; persons signing such petitions bear no liability for the costs and expenses of a grand jury summoned thereafter; a grand jury is authorized to investigate and return indictments; private citizens may appear before a grand jury if permitted to do so by the foreman and members thereof.

* * *

Dear Representative Glover:

K.S.A. 22-3001(2) commences thus:

"A grand jury shall be summoned in any county within sixty days after a petition praying therefor shall be presented to the district court bearing the signatures of a number of electors equal to one hundred plus two percent of the total number of votes cast for governor in the county in the last preceding election."

You inquire whether this requirement is constitutionally valid. You do not indicate the nature of the constitutional question, if any, which has been raised respecting this section. It is, of course, impossible to address constitutional questions without some guidance as to the nature of the objections raised, if any.

The Honorable Michael G. Glover
Page Two
July 21, 1975

There certainly appears, however, no basis upon which to question the validity of this requirement, and we are aware of no argument on the basis of which its validity may be drawn in question.

You inquire, secondly, whether the signers of a petition for a grand jury incur any liability for the expenses of the grand jury. They do not. The costs thereof are borne by the general fund of the county. K.S.A. 22-3006.

Third, you ask an explanation of the duties, obligations and responsibilities of a grand jury and of its members. K.S.A. 22-3005 states thus:

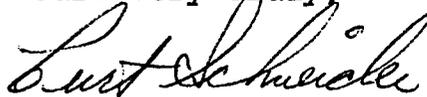
"(1) When a grand jury is impaneled and sworn, it shall be charged by the judge who summoned it. In so doing, the judge shall give the grand jurors such information as he deems proper and as is required by law, as to their duties, and as to any charges of crimes known to the court and likely to come before the grand jury.

(2) When the grand jury has been impaneled, sworn and charged, it shall retire to a private room, and inquire into the crimes cognizable by it."

The grand jury is authorized to return indictments, and to find that indictments are not warranted. Whether a grand jury may, in conjunction with its investigation, in addition to indictments and no bills, issue an investigative report of its findings, is unclear. At present, there appears to be no statutory authority for such reports. However, given the statutory silence on the question, it is one which is not yet settled in this jurisdiction.

Lastly, you inquire to what extent a private citizen may appear before a grand jury to make accusations of criminal conduct and to present evidence of the same. Any person desiring to appear before the grand jury should notify the foreman of the grand jury, and, in addition, the prosecuting attorney if the grand jury has requested his assistance. The grand jury will act upon the request as it deems appropriate.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj