

HOUSE RESOLUTION NO. ____

By Representatives Poskin and Highberger

A RESOLUTION affirming the Kansas house of representative's unwavering support for free press in the state of Kansas and directing the attorney general to make a report to the body concerning the Colorado bureau of investigation's inquiry regarding the extent to which the civil rights of any Kansan were violated when certain search warrants were executed in Marion, Kansas, on August 11, 2023.

WHEREAS, Journalism is a pillar of democracy, and free press is protected by the First Amendment to the Constitution of the United States; and

WHEREAS, Section 11 of the Kansas Bill of Rights, enshrined in the Kansas Constitution, declares, "The liberty of the press shall be inviolate"; and

WHEREAS, As defined by K.S.A. 2023 Supp. 60-480(a), a journalist is a publisher, editor, reporter or other person employed by a newspaper, magazine, news wire service, television station or radio station who gathers, receives or process information for communication to the public. The same statute also states that a journalist can be defined as an online journal in the regular business of newsgathering and disseminating news or information to the public; and

WHEREAS, Journalists are important participants in democracy and, increasingly, a vital source of local news and educational information within their communities; and

WHEREAS, Journalists create historical records and provide an important service to the community; and

WHEREAS, Journalists in Kansas, including those at the Marion County Record in Marion, Kansas, have faced retaliation for exercising their constitutional rights in the course of publishing facts about important matters and those of public concern; and

WHEREAS, On August 11, 2023, law enforcement agencies, led by the Marion Police Department, executed search warrants on the Marion County Record, the home of its publisher, Eric Meyer, where he lived with his 98-year-old mother, Joan Meyer, and the home of then-city commission

member Ruth Herbel; and

WHEREAS, On August 12, 2023, Joan Meyer, who was present when authorities executed the search warrant the previous day, died by cardiac arrest after being, according to an article published by the Marion County Record, "stressed beyond her limits and overwhelmed by hours of shock and grief" in the aftermath of the intrusion into her residence; and

WHEREAS, On August 16, 2023, the Marion County Attorney withdrew the search warrants and authorized the return of seized items because, according to a news release made by Marion County Attorney Joel Ensey, "insufficient evidence exists to establish a legally sufficient nexus between this alleged crime and the places searched and the items seized"; and

WHEREAS, None of the people whose homes or businesses were searched on August 11, 2023, have been charged with any criminal offense; and

WHEREAS, In answer to a lawsuit filed by one of the journalists subjected to the search, Gideon Cody, Chief of the Marion Police Department at the time the search warrants were executed and who has since resigned, alleged and suggested in his text messages, sent prior to the execution of the warrants, that the Kansas Bureau of Investigation reviewed the search warrants before they were executed; and

WHEREAS, The Colorado Bureau of Investigation, at the request of the State of Kansas, has opened an investigation on the circumstances surrounding the August 11 searches; and

WHEREAS, The Congress of the United States has enacted the Privacy Protection Act of 1980 (PPA), codified at 42 U.S.C. § 2000aa et seq., which generally requires the government to issue subpoenas to journalists before subjecting them to search warrants; and

WHEREAS, The PPA provides that, absent certain narrow and enumerated exceptions, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials or documentary materials, as

defined by the PPA, that are in the possession of a journalist; and

WHEREAS, Searching for or seizing any journalistic work product or documentary materials, as defined by the PPA, without first issuing subpoenas contravenes the tenets of the First Amendment and the basis of a free and informed society, for it undermines the role of journalism in encouraging engaged, civic-minded, critical thinkers: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas: That we hereby affirm our unwavering support for the free press in the state of Kansas; and

Be it further resolved: The we direct the attorney general to make a report to the body concerning the Colorado Bureau of Investigation's inquiry regarding the extent to which the civil rights of any Kansan were violated when certain search warrants were executed in Marion, Kansas, on August 11, 2023; and

Be it further resolved: That the Chief Clerk of the House of Representatives shall send an enrolled copy of this resolution to Executive Director of the Kansas Press Association, Emily Bradbury, Editor and Publisher of the Marion County Record, Eric Meyek and Representatives Poskin and Highberger.