

Senate Resolution No. 1733

By Senators Sykes, Francisco, Haley, Holscher, Pettey, Reddi and Ware

1-29

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

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

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

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

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

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

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

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

35 WHEREAS, On August 12, 2023, Joan Meyer, who was present when
36 authorities executed the search warrant the previous day, died by cardiac

1 arrest after being, according to an article published by the Marion County
2 Record, "stressed beyond her limits and overwhelmed by hours of shock
3 and grief" in the aftermath of the intrusion into her residence; and

4 WHEREAS, On August 16, 2023, the Marion County Attorney
5 withdrew the search warrants and authorized the return of seized items
6 because, according to a news release made by Marion County

7 Attorney Joel Ensey, "insufficient evidence exists to establish a legally
8 sufficient nexus between this alleged crime and the places searched and
9 the items seized"; and

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

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

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

20 WHEREAS, The PPA provides that, absent certain narrow and
21 enumerated exceptions, it shall be unlawful for a government officer or
22 employee, in connection with the investigation or prosecution of a
23 criminal offense, to search for or seize any work product materials or
24 documentary materials, as defined by the PPA, that are in the possession
25 of a journalist; and

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

31 *Be it resolved by the Senate of the State of Kansas:* That we hereby
32 affirm our unwavering support for free press in the state of Kansas; and

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

38 *Be it further resolved:* That the Secretary of the Senate shall send an
39 enrolled copy of this resolution to the Executive Director of the Kansas
40 Association of Broadcasters, Allison Mazzei, Executive Director of the
41 Kansas Press Association, Emily Bradbury, Editor and Publisher of the
42 Marion County Record, Eric Meyer, and Senator Sykes.