

Written Testimony Provided to the
Kansas Senate Corrections and Juvenile Justice Committee
Topeka, Kansas

January 29, 2015

By
Lawrence R. Uri, Jr.
City Manager
Concordia, Kansas

Senate Bill 18

Chairman Smith and Members of the Committee:

On behalf of the City of Concordia, I thank you for the opportunity to provide written testimony to the committee regarding Senate Bill 18. I am the city manager of the City of Concordia. In preparation for this testimony, I have discussed Senate Bill 18 with the Concordia Chief of Police, Bruce Johnson.

I applaud your initiative to mandate the use of body cameras. Like many cities, Concordia has recently acquired body cameras for our uniformed patrol personnel. We invested \$18,000.00 in the Taser Axon system, including the cameras, a docking station, software, and cloud storage. In estimating the amount of cloud storage that we will need, we assumed that patrol officers will be required to turn on the camera during any encounter with a citizen while on duty, but that otherwise the camera would not be recording. Our system has the ability to produce a video that begins thirty seconds before the officer presses the record button.

Our police department is in the process of becoming familiar with the cameras and the software, preparing an operation policy, and training personnel. Until the department has gained experience with the system, I will not be confident that the city has assessed the full commitment of time and budget that the proper use of this new equipment will entail. Our present state of inexperience makes me concerned as to whether the department will be able to meet all of the requirements of the proposed legislation. Penalties for failure to properly store and retrieve the video recorded by the cameras are extreme, including the creation of a presumption that the person who disputes our officers' version of events is telling the truth.

I am also concerned that the proposed legislation may greatly increase the expense of using the cameras without providing funding for the required additional cloud storage. I believe that a modified version of the proposed legislation may promote the uniform operation of body cameras statewide, while allowing both the municipalities and the legislature additional time to weigh the cost and advisability of additional requirements for the use of the system.

In that spirit, I offer the following suggestions.

Section 2(b)(1) of the bill states that, subject to certain exceptions, a law enforcement officer shall activate the recording function of the body camera whenever such officer is on duty, continuously record with the camera, and make an effort to record interactions with others with the camera. This manner of operation would require the purchase of significantly more cloud storage capacity, at substantial expense to the community, and would result in many hours of useless recording. As Chief Johnson has explained to me, typically an officer on patrol duty will spend a relatively small amount of their time interacting with citizens. If only those interactions are recorded, we might expect to upload an hour a day on average to our cloud storage. These are estimates. Until we have experience with the system, we will not have an accurate concept of the storage requirements. But if we are required by law to operate the camera constantly, we will be uploading eight hours per shift, most of which will be of no use, and our storage costs will increase accordingly. The proposed legislation should be amended to require recording only during interactions with citizens.

Section 2(b)(2) places an affirmative duty “as practicable” on a law enforcement officer to notify persons who are being recorded by the camera. When is omitting the warning not “practicable”? Could a court determine that video footage of a violent crime is not admissible because the officer, forced to act quickly to protect other lives or his or her own, did not give the statutorily required notification? These flaws make it advisable to strike this subsection from the proposed legislation.

Section 4(e) requires a recording made by a body camera to be retained for three years if requested by certain persons. I am an attorney and at times have worked as a prosecutor, defense counsel, and municipal judge. Based on my experience, I think it likely that this requirement will lead to the routine filing of defense motions in all pending cases to retain all video footage pertaining to the case. The proposed legislation should permit the assessment in advance of a fee in an amount reasonably related to the cost of retention. The cost of retention of recordings in cases concerning indigent defendants should be reimbursed by the state. The proposed legislation could be improved by provisions allowing a court to terminate the retention requirement, and permitting assessment of the expense of video retention as court costs in the event of conviction.

Section 4(e) requires that copies of recordings be given to any requesting person who is the subject of the recording, or to various other persons acting on behalf of or authorized by that person. No provision is made for payment of the expense of storing, retrieving, or providing the recording. Nothing in the legislation would prevent a citizen from filing a blanket, continuing request that they be provided with any recording in which they are shown, which if done by numerous citizens would create an unmanageable administrative burden. The provision as written would permit a suspect in a criminal investigation to require disclosure of any such recordings while the investigation is still ongoing. The proposed legislation should be modified to make the disclosure of such recordings permissible but not mandatory unless disclosure is ordered by a court.

In instances where an agency is unable to produce a recording, Section 5 of the proposed legislation creates a presumption that the recording would corroborate the version of the facts advanced by the defendant in a criminal case or by a party opposing the law enforcement officer or agency in a civil action. Creation of such a legal presumption would give a criminal

defendant or a civil rights plaintiff a nearly insuperable advantage. The technology for recording, storing, and retrieving video online may not be dependable enough to bear such a burden. Shall a murderer go free because a body camera malfunctions? Shall municipalities, counties, and the highway patrol be subject to massive civil rights judgments because a video storage system failed or because one recording among thousands of recorded hours cannot be located?

SB 18 contains no provision to provide funding for the cameras, the storage, the administration, or the compliance with the disclosure requirements for body camera video. I have not seen an estimate of what these costs may be. If such an estimate exists, I apologize for my failure to properly inform myself. If there is no such estimate, might your committee be well advised require further investigation as to cost before determining whether the laudatory purposes of the bill should be accompanied by funding sufficient to achieve the desired ends?

Thank you again for permitting me to testify.



City of Arkansas City, Kansas

Police Department
Daniel Ward, Police Chief

January 26, 2015

Senate Standing Committee on Judiciary

Chair Sen. Jeff King

Vice Chair Sen. Greg Smith

Ranking Minority Member

Sen. David Haley

Members

Senate

Sen. Terry Bruce

Sen. Forrest Knox

Sen. Garrett Love

Sen. Julia Lynn

Sen. Carolyn McGinn

Sen. Mike Petersen

Sen. Pat Pettey

Sen. Mary Pilcher-Cook

I would like to take this opportunity to introduce myself and express my concerns about the proposed police and citizen protection act, Senate Bill 18. As the Chief of Police for Arkansas City, Kansas, and an officer of 28 years, I have spent countless hours researching and deliberating the pros and cons of body worn cameras for police officers. I have come to the conclusion that body worn cameras do serve an important role in policing today and I support their use. To that end, I have recently received authority from our governing body to purchase body worn cameras for our officers to use while assigned to patrol duties. Additionally, the Arkansas City Police department currently uses in-car recording systems in all of the vehicles used on patrol.

The decision to use in-car and/or body worn cameras is only the first decision and many other issues pertaining to how they are used, how long the information is stored, and how it is disseminated is of greater concern and worthy of detailed consideration. This is where I have substantial concerns with Senate Bill 18. The bill as written goes far beyond an unfunded mandate for agencies to use this technology and addresses policies which should be left to the individual departments. As stated earlier, I am in support of body worn cameras and we are moving forward with their implementation, so I will not address the concerns of this being an unfunded mandate. I would however like to point out that as written under section 6, agencies would be required to seek grant funding. Agencies such as Arkansas City are willing and able to purchase and use this technology and grant assistance is not necessary.

One of the largest debates surrounding body worn cameras is the topic of when the cameras should be activated. When developing policy on the use of body worn cameras I looked at the desired results of recording contacts with citizens and balanced it with the concerns of privacy on the part of the involved officer. Continuous recording as dictated under subsection 2 is not fair for the officers or practical for the agency. During an officers tour of duty there are many activities which should remain private. Officers should feel free to discuss with other officers, supervisors, and attorneys, the facts and details of a case to determine investigative direction. Officers should also have the ability to have private conversations about

Arkansas City Police Department / 117 W. Central Avenue / Arkansas City, Kansas / 67005-0778
(620) 441-4444 / Fax (620) 442-1410 / dward@arkansascityks.gov
www.arkansascityks.gov

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non-police matters without the constant scrutiny of surveillance. The objective of using body worn cameras is to document official contact with citizens, not apply 24/7 surveillance on our own police officers. The International Association of Chiefs of Police (IACP) has prepared a model policy and addressed this issue appropriately. The IACP's policy dictates that the body worn cameras are activated "to record all contacts with citizens in the performance of official duties." The model policy goes on to read, "BWCs shall be used only in conjunction with official law enforcement duties. The BWC shall not generally be used to record: 1. Communications with other police personnel without the permission of the chief executive officer (CEO); 2. Encounters with undercover officers or confidential informants; 3. When on break or otherwise engaged in personal activities; or 4. In any location where individuals have a reasonable expectation of privacy, such as a restroom or locker room."

Under section 2, Senate Bill 18 allows a citizen in their own home to have the officer stop recording in nonexigent circumstances. Under section 5 it reads that if there is not a recording, there shall be a presumption that the recording would corroborate the version of the defendant. These two sections are in conflict and would cause more harm than good. Additionally, section 5 presumes that a body worn camera would be the definitive answer to all disputed facts. This simply is not the case as is referenced in the 10 limitations of body worn cameras which was written by Force Science. Video evidence, while sometimes helpful, will never be able to completely replace testimony of an officer. When we are talking about in-car or body worn camera systems we are talking about electronic systems that are sensitive and occasionally break down without warning. Departments and officers with the best of intentions will occasionally be faced with the fact the equipment did not work correctly. In such an instance, the case should not be disregarded. The IACP policy addresses this issue by stating, "If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why a recording was not made, was interrupted, or was terminated."

Under Section 4, Senate Bill 18 addresses the retention schedule of the recordings. The retention schedule for recordings has been addressed by the Kansas Historical Society and best practice guidelines have been set for the Topeka Police Department using their input. The retention schedule used by Topeka Police and many other agencies is more definitive and useful for police agencies. This section also assumes an individual is responsible for the review and deletion of recorded data. The system used by our department, and many others, utilizes an automatic retention schedule based on how the recording is initially classified by the officer and the retention schedule as suggested by the Kansas Historical Society. Automation of this task was one of the main factors in determining which system we should purchase for Arkansas City in an attempt to reduce the personnel and financial burden. The language utilized in this bill addresses old procedures and does not account for the rapid developments in this new technology.

Also under section 4, Senate Bill 18 requires departments to disseminate copies of the recordings to either the suspect or the victim. All recordings should be considered the property of the police department and should be treated as evidence. The IACP model policy reads "All images and sounds recorded by the BWC are the exclusive property of this department. Accessing, copying, or releasing files for non-law enforcement purposes is strictly prohibited. All access to BWC files must be specifically authorized by the CEO or his or her designee, and all access is to be audited to ensure that only authorized users are accessing the data for legitimate and authorized purposes." As written, Senate Bill 18 has the potential to undermine the judicial process, taint the jury pool, and turn this valuable tool into nothing more than internet entertainment.

The use of body worn cameras requires careful thought and research. All top police administrators in Kansas should be responsible for making these policy decisions, not a legislative mandate.

Very truly yours,



Daniel C. Ward
Police Chief

Enclosures

FRANK P. DENNING
SHERIFF



KEVIN D. CAVANAUGH
UNDERSHERIFF

DUTY HONOR SERVICE

588 E. SANTA FE, SUITE 2000
OLATHE, KS 66061
www.jocosherriff.org

January 29, 2015

Senate Committee on Corrections and Juvenile Justice
Senator Greg Smith, Chair
Senator Forrest Knox, Vice Chair

Mr. Chair, Vice Chair and members of the Committee,

Thank you for the opportunity to present testimony today in opposition to Senate Bill 18 on behalf of the Johnson County Sheriff's Office. With my testimony I will provide you with some background and perspective.

The Johnson County Sheriff's Office is by no means opposed to the use of body worn cameras by law enforcement officers. In fact, our Road Patrol Deputies have been using body worn cameras since 2011, and we are currently phasing in body worn cameras for use in our Detention Division (jails). Eventually, we hope to equip most, if not all, of our Deputies who routinely interact with the public. For the Sheriff's Office, the cost is approximately \$800 per camera, to include the ancillary costs of docking stations, annual licensing and data storage. The company that provides our equipment, TASER International estimates the service life of these cameras to be approximately three years.

Considering the costs of the initial purchase of equipment along with the anticipated replacement every three years, the cost of annual licensing, the cost of data storage, and the on-going personnel expense required to manage, maintain, copy and disseminate the information contained in the database, it should come as no surprise that we are vehemently opposed to the unfunded mandates represented in Senate Bill 18.

The Johnson County Sheriff's Office is committed to continually exploring and implementing best-practices in all of our policies and practices. We have in effect policies applying to our body worn TASER Axon audio/video recording equipment. This policy addresses the use of the cameras, the recordings, a reasonable expectation of privacy, non-enforcement activities, and accountability. It is my belief that best-practice policies and procedures regarding the use of body worn cameras by law enforcement are best left to the wisdom, experience and expertise of law enforcement managers.

The unfunded mandates contained in Senate Bill 18 are counter-productive to the effective acquisition, implementation and use of body worn cameras by Kansas law enforcement agencies. Please carefully consider these issues as you deliberate.

Sheriff Frank P. Denning
Johnson County Sheriff's Office
913-715-5505
frank.denning@jocogov.org

THOMAS T. HONGSLO • CHIEF OF POLICE



12500 WEST 87TH STREET PARKWAY
LENEXA, KANSAS 66215
OFFICE • 913/477-7300
FAX • 913/477-7249

TESTIMONY IN OPPOSITION OF SB 18 – Enacting the police and citizen protection act; relating to use of body cameras by law enforcement officers

To: Honorable Chairman Greg Smith
Members of the Senate Standing Committee on Corrections and Juvenile Justice

From: Thomas Hongslo, Police Chief
City of Lenexa

Date: January 26, 2015

Honorable Chairman and members of the Senate Standing Committee on Corrections and Juvenile Justice, the Lenexa Police Department thanks you for the opportunity to provide testimony in opposition of SB 18.

The Lenexa Police Department initiated a body worn camera program five years ago. As of early last year, all sworn officers wear a body worn camera while on duty. We have had great success with our body worn cameras that have allowed us to more efficiently and effectively resolve complaints, investigate use of force incidents and they are of great evidentiary value for courtroom testimony. We have effective policies and retention schedules that meet the needs of the department and the criminal/civil justice systems.

However, I oppose this bill for several reasons, which include:

- Unfunded mandate on acquisition of cameras.
- Unfunded retention mandates (we had 41,000 videos placed on a server in 2014).
- Mandated notification to citizens that the police are recording the contact.
- Mandated viewing of all videos before they drop off the server or are destroyed.
- If there is not a video of an incident pursuant to this bill, there shall be a presumption that the recording would corroborate the version of the facts

advanced by the defendant in a criminal action or the party opposing the law enforcement officer or law enforcement agency in a civil action.

The Lenexa PD policy states that officer shall activate their body worn camera when possible. Officers are frequently involved in quickly evolving situations where immediate action is necessary. The last thing we want the officers to be worried about is the activation of the camera that could jeopardize their own - or a citizen's safety.

It is very important to remember that body worn cameras do not capture everything that is occurring around them. They are not the absolute resolution of any criminal case, use of force or complaint. The cameras focus is on the front of the officer and sometimes do not record the visual or auditory perception of the officers. The body worn camera should be viewed as just one tool used to capture evidence; as a part of a greater collection of all evidence presented in a criminal case, use of force review or complaint.

It also is important to understand that under stressful situations that certain physiological effects often occur within a person body. These could include tunnel vision, exclusion of auditory senses, increased heart rate etc. This may causes the officer to focus on one aspect of their view, however, the camera maintains a broad view – capturing more than the eyes can actually process.

Therefore, the camera must not be relied upon as the sole tool in making a decision in any of these areas. Many citizens believe that certain controversial incidents that have occurred outside of Kansas would have been resolved if the officer had been wearing a body camera. We would warn these citizens that body cameras do capture great video and audio, but do not take into account the thoughts, feelings, stress level or physiological aspects of the officer when confronted with a critical incident.

I am a big proponent of the body worn camera but I believe that we, as the law enforcement professionals, have the knowledge of our profession and best practices to deploy the cameras in the most effective way. In my 24 years of being a police officer, this is the first time that I can remember that a bill has been introduced that mandates the use of a piece of equipment.

We have had great advances in law enforcement technology with in-car cameras, less lethal technology and other safety equipment and their use has never been mandated. The technology of body worn cameras is relatively new and the technology is advancing each year. I believe that most police departments will have body cameras in the future but we must allow them to acquire them and deploy them with consideration to budgetary issues and best practices. Each community is different and presents its own challenges. There will be no perfect one-size fits all model.

We were the first agency in the Kansas City Metropolitan Area to deploy these cameras. We believe that our use of the cameras meets the highest standards in policy, best practices and ethical use.

The only part of this bill that I would support is the that every recording made by a body camera as required by the police and citizen protection act shall be confidential and exempt from the Kansas open records act in accordance with K.S.A. 45-221, and amendments thereto. We believe that a citizen should not be able to obtain a video through open public records that would show a personal conversation between another citizen and a police officer.

Thank you for your time and if you have questions, please do not hesitate to contact me.



122 S.W. 7th Street
Topeka, KS 66603

Phone: (785) 296-6800
Fax: (785) 296-5956
www.kansashighwaypatrol.org

Mark A. Bruce, Interim Superintendent

Sam Brownback, Governor

Testimony on Senate Bill 18
Senate Committee on Corrections and Juvenile Justice

Prepared by
Captain Scott Harrington
Kansas Highway Patrol

January 29, 2015

Good morning Mr. Chairman and members of the committee. My name is Scott Harrington and on behalf of Colonel Mark Bruce and members of the Kansas Highway Patrol, I appreciate the opportunity to appear before you today regarding Senate Bill 18. This bill focuses on the ability of a law enforcement agency to incorporate video surveillance, in the form of a body camera, to articulate and corroborate evidence while performing our daily duties.

For nearly two decades, the Kansas Highway Patrol has equipped our officers with similar technology that is equivalent to the body camera. Currently, we are in the final implementation phase of installing a new Watch Guard DV1e platform into all of our patrol vehicles, which replaces an older, aging Watch Guard platform we have been using for a number of years. Our system incorporates a front and rear camera affixed to the windshield along with a high resolution mic pack that we carry on our duty belts. The equipment is installed to operate when the ignition switch is on and remains on throughout the shift. Every traffic stop, service rendered, roadside public contact, and emergency response requiring the officer to utilize lights and siren is recorded until the contact is terminated. Ninety percent (90%) of our daily duties involve our officers working out of a patrol vehicle.

The Watch Guard technology allows for accurate documentation of events and statements made during arrests, crashes and other incidents, so as to enhance officer reports, collection of evidence and testimony in court. This also enhances our ability to review probable cause for arrest, arrest procedures, officer and suspect interaction and evidence for investigative purposes as well as for officer evaluation and training. And as an agency that primarily contacts the public through traffic stops or traffic crashes, the in-car platform has been an ideal solution for our officers. It is important that vehicles, registration plates, and a more comprehensive view of the area the officer is performing his or her duties, is captured during recording.

The Patrol has a stringent policy in place dictating the proper storage and care of the recorded media. This media is maintained for a minimum of two years at which time it will be reviewed

for any evidentiary value. If there is evidentiary value identified, the data will be maintained until the case has been adjudicated.

Under SB 18, the Patrol would face significant start-up costs to outfit 500 law enforcement officers with body cameras as well as be required to budget for on-going maintenance costs for storage, management and access to media data recorded by body cameras. Because the Patrol already uses an in-car video recording system in all of its patrol vehicles, costs for body cameras and related supporting functions would be in addition to the costs associated with our current recording system. And during these tight budget times, it will be impossible for the Patrol to add another recording platform to our current budget without a fiscal enhancement from the Legislature.

Mr, Chairman and members of the Committee, the Patrol understands and appreciates the thought that has gone into SB 18. However, we believe we are already meeting the intent set forth with existing technology we have in place. Consequently, we stand in opposition to SB 18 in its current format. The Kansas Highway Patrol appreciates the opportunity to provide its input regarding this bill today, and I will be happy to answer any questions you may have.

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Overland Park, Kansas 66212
913-895-6000 | www.opkansas.org

Written Statement to the Senate Committee on Corrections and Juvenile Justice
By Dick Carter, Jr.
SB 18 – Requiring the use of body cameras by law enforcement officers
January 29, 2015

Chairman Smith and members of the Senate Committee on Corrections and Juvenile Justice, the City of Overland Park provides this written statement in opposing of SB 18.

On behalf of the Overland Park Police Department, our first and highest priority is the safety and welfare of the citizens of Overland Park, and the men and women who protect everyone. The City employs 250 commissioned officers, operating from four police stations throughout the City.

Presently, the City does not utilize body cameras for law enforcement officers. The decision to study, phase in, or implement such equipment should lie with the council members who were elected to set budgets, establish taxing levels, and determine spending limits, while representing the needs of their constituents.

Should this bill become law, based on cost estimates obtained by the City to equip law enforcement officers covered by Section 1 of the bill, the most basic entry level system would exceed \$1.1 million. This estimate includes the cost for body cameras and limited cloud storage for the data. It is unknown if the amount of storage would be sufficient for maintaining three-years of data as prescribed by SB 18. Any amount of storage beyond the initial data threshold would come with additional costs, not included in the total above.

This cost estimate does not include glasses or other special mounting hardware that may be required to host the camera on each officer. It is anticipated that costs to maintain the body camera system(s) would need to be budgeted at approximately \$200,000, annually.

Additionally, the outlined costs above do not include any training for the officers, nor does it account for time that the officers or administrators who may be required to complete paperwork or respond to public requests as permitted by the act.

While we appreciate the spirit in which this bill is offered, the City would respectfully request that you not support SB 18.



To: Senate Corrections and Juvenile Justice Committee

From: Eric B. Smith, Legal Counsel

Date: January 29, 2015

RE: Opposition to SB 18

I want to thank Chairman Smith and the Committee members for allowing the League of Kansas Municipalities to testify today and express our opposition to SB 18.

The League does not oppose the use of body cameras by law enforcement officers in fact, many of our members already use the devices. We do object to the mandate that SB 18 creates with no funding provided to meet the mandate. In the process of gathering the requested information for the fiscal note for SB 18 we have heard from many of our members who already have the cameras in place or are considering them. What we found was that the cost associated with the cameras was a range of \$800 to \$1,200 dollars per officer and will vary by the quality of equipment and the choice of storage.

In addition to the unfunded mandate of SB 18 the League must oppose the establishment of a presumption of guilt if a video is not available. The storage of video collected by law enforcement should be a local decision established by the adoption of policies that meet local needs. SB 18 creates the need to store hours and hours of video that would serve no purpose other than expend taxpayer dollars for storage costs.

The League would support an exemption from the Kansas Open Records Act for most videos collected by body cameras. There are portions of SB 18 that attempt to address this issue and the League would be more than happy to participate in exploring an equitable solution to the public's right to information and an individual's right to privacy. We would support a separate bill that would assure privacy rights and at the same time be sure that providing video to the public does not become a drain on local government budgets.

In summary the League opposes the mandate of body cameras without corresponding funding as well as the mandate of how and when video will be used and saved. How or if video is used is a local issue and any decisions concerning it should be left to local government to make.

Based on the above concerns the League of Kansas Municipalities respectfully requests that the Committee **not** pass SB 18 out to the full Senate.

CITY OF SHAWNEE

CITY HALL
11110 JOHNSON DRIVE
SHAWNEE, KS 66203
(913) 631-2500
FAX (913) 631-7351

CIVIC CENTRE
13817 JOHNSON DRIVE
SHAWNEE, KS 66216
(913) 631-5200
FAX (913) 631-4651

FIRE
6501 QUIVIRA ROAD
SHAWNEE, KS 66216
(913) 631-1080
FAX (913) 631-1628

POLICE
5850 RENNER ROAD
SHAWNEE, KS 66217
(913) 631-2155
FAX (913) 631-6389

MUNICIPAL COURT
5860 RENNER ROAD
SHAWNEE, KS 66217
(913) 742-6003
FAX (913) 962-0983

SENATE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE HEARING ON SB 18

Written Opposition Testimony to SB 18 on behalf of the City of Shawnee

By Katie Killen, Assistant City Manager
January 29, 2015

Honorable Chair and Members of the Senate Corrections and Juvenile Justice Committee:

The City of Shawnee appreciates the State's desire to provide more evidence in incidents where law enforcement is involved. The City does not oppose the use of cameras, but has some serious concerns about the proposed legislation related to purchase of cameras, the storage of data and the question of presumption stipulated in the bill.

On the surface this bill creates an unfunded mandate in not only immediate use of cameras, but in what we anticipate the higher associated cost of review, retention and destruction of the footage. At a minimum we anticipate the additional associated costs:

- Over 87,000 hours of video footage annually to be reviewed to verify retention or destruction based on 10 cameras operating nearly 24 hours/365 days a year. This would be new workload hours added.
- One new FTE to support the IT functions of the retention (Approximately \$75,000 with salary and benefits).
- Costs associated with the technology storage that could vary.

The suggested funding language recommends cities apply for and accept grants to pay for the requirements of this legislation. At this time, this is not a guaranteed funding source, nor would long term ongoing costs necessarily be covered by such a funding source. The review hours alone make this bill cost prohibitive.

Hand in hand with the review, retention and destruction requirements is concern over the vagueness within the requirements as follows:

- Who determines what is deemed "relevant" in a formal or informal complaint as stipulated in Section 4(b)(3)

In addition this vague language directly affects what is retained and the consequence of either not retaining or not having the video footage. The consequence as stated in this bill is as follows:

"Sec. 5. If, in connection with a criminal prosecution or civil action, a law enforcement agency is unable to produce a recording that is required to be made and retained under the police and citizen protection act, there shall be a presumption that the recording would corroborate the version of the facts advanced by the defendant in a criminal action or the party opposing the law enforcement officer or law enforcement agency in a civil action."



CITY OF SHAWNEE

CITY HALL
11110 JOHNSON DRIVE
SHAWNEE, KS 66203
(913) 631-2500
FAX (913) 631-7351

CIVIC CENTRE
13817 JOHNSON DRIVE
SHAWNEE, KS 66216
(913) 631-5200
FAX (913) 631-4651

FIRE
6501 QUIVIRA ROAD
SHAWNEE, KS 66216
(913) 631-1080
FAX (913) 631-1628

POLICE
5850 RENNER ROAD
SHAWNEE, KS 66217
(913) 631-2155
FAX (913) 631-6389

MUNICIPAL COURT
5860 RENNER ROAD
SHAWNEE, KS 66217
(913) 742-6003
FAX (913) 962-0983

This new presumption fails to address many things, but a few to consider are as follows:

- It negates or at least seems to conflict with statutes related to evidentiary requirements for admissibility of evidence by establishing a presumption of evidentiary facts without regard to the Rules of Evidence.
- It lacks consideration regarding the relevance to or nexus between what is possibly contained on the tape and the "version of the facts" advanced by the defendant or the opposing party
- It creates confusion in instances where the employer of the officer is "the party opposing."
- It does not consider what happens outside the scope of the camera, nor what takes place if camera and footage is somehow damaged.

For these reasons, the City of Shawnee opposes SB 18 related to the unfunded mandates inherent in this piece of legislation (most specifically with the retention requirements) and the presumption it stipulates within Section five.

Thank you for your consideration.





TESTIMONY

Dale Goter
Government Relations Manager

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.352.4876
dgoter@wichita.gov

Hearing on SB 18
Senate Corrections and Juvenile Justice Committee
9:30 a.m. Thursday, Jan. 29, 2014

CITY OF WICHITA OPPOSITION TESTIMONY

Chairman Smith and members of the committee:

The City of Wichita is supportive of equipping uniformed police officers with body cameras, but stands in opposition to SB18 because of the unfunded mandates it imposes on local governments.

Compliance with SB18 would cost the City of Wichita an estimated \$972,200 to fully equip our patrol personnel, with operating and replacement costs of \$7,735,380 over a 10-year cycle.

SB18 does not provide a funding source or timeline for implementation. Local governments will find it impossible to find budget resources to cover the unfunded mandates of this legislation.

The City of Wichita recommends that SB18 be withdrawn and replaced with a legislative resolution supporting and encouraging cameras on officers. The resolution also should support on-going research regarding the benefits and consequences of body cameras. A resolution will generate desired publicity and conversation and put law enforcement agencies on notice that well researched, well informed legislation may be forthcoming in subsequent years.

SPECIFIC CONCERNS

- Body camera video and audio recordings, as records of police action and/or police enforcement, are physical evidence. The legislation should acknowledge the evidentiary nature of the recordings. Retention should also be determined by Departments' evidence management policies, not by the proposed language in this bill.
- SB18 should allow for reasonable charges to be assessed for copying of videos for the public and defendant. The bill is silent as to whether the agencies may charge for these videos. It will take full time department custodians to address requests for videos.
- Section 4j states, "Every recording made by a body camera as required by the PaCPA shall be confidential and exempt from the KORA." However, Section 4 g and h

collectively diminish the confidential nature of the recordings and make them more open records than not. The bill language "Shall provide the requesting person with a copy" is ambiguous language and poor law. The word "person" in Section 4 e, f, g and h means not just an individual, but also a public or private corporation, government, partnership or unincorporated association. Volumes of people can potentially allege statutory rights to copies of videos from any one incident.

- SB18 leaves no room for errors, and does not recognize potential problems with hardware, system capabilities and reliability. The language in Section 5 is naïve regarding existing technology, including such aspects as battery life, storage capacities, backup equipment and other elements necessary to guarantee that every officer has a functional camera for every work day and shift.
- The language, "non-exigent circumstances" in Section 2 b4 is ambiguous. This is a political provision, and poor law, which is in conflict with Section 2a and Section 5. Section 2b1 just muddies the water. There are many "non-exigent" calls that can result in police action or police enforcement inside a residence (disputes, domestic disturbances, welfare checks, mental health calls, unruly juvenile calls, etc...). Section 2 b4 may protect the officer(s) who did not record, but the officers will likely still be questioned and doubted for not having video/audio of disputed police action within a residence.
- Section 2 4c requiring every officer to sign a waiver has no penalties and is not enforceable within this statute. Discipline and order is managed within each department through policies and rules.