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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.