

To: House Corrections and Juvenile Justice Committee

From: Doug Taylor, Legal Counsel

Date: March 1, 21018

RE: Neutral testimony on HB 2625

I want to thank Chairman Jennings and the Committee members for allowing the League of Kansas Municipalities the opportunity to provide testimony on HB 2625.

While we understand the desire of KSCPOST to avoid a chilling effect on reporting on the amount of information law enforcement agencies put into the registry, we have concerns about how this goal is obtained in HB 2625.

In HB 2625, the language change in Section 1, (a)(3) states that “All records contained in the registry are confidential and shall not be disclosed pursuant to the Kansas open records act, except such records *may be disclosed* as provided in subsections (a)(4) and (a)(5).”

Currently, KSA 74-5611a states KSCPOST *shall disclose* the registry to agencies who appoint or elect police or law enforcement officers. By changing the language from shall to may, this bill makes it discretionary for KSCPOST to share the registry with our member cities. While this may not have been the intent of this legislation, we have concerns about the unintended consequences of this change.

Additionally, under K.S.A. 74-5611a(e), agencies currently have absolute immunity from civil liability for anything written in the report to KSCPOST explaining the circumstances surrounding the officer’s resignation or termination. Cities do not have the same immunity if this information is released pursuant to a direct KORA request to the city. As such, a city will deny any requests regarding the circumstances of an officer’s resignation or termination under the personnel exemption to the open records act. In the Committee report from the Judicial Council, the report states “The Committee did not believe that KSCPOST should be required to disclose information that the public could not receive under KORA from the individual law enforcement agencies.” While we do not have a position on whether these records should be released from KSCPOST to the public, we do feel that it is important the information

be released to agencies making law enforcement employment decisions. From a public policy perspective, as this Committee examines the purpose of KSCPOST, and whether it is effectively accomplishing its goal of protecting the public from bad officers, we feel that it should at least be acknowledged that because of a city's potential exposure to civil liability, these records will not be released from an individual city.