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**Testimony to the House Judiciary Committee
Supporting Senate Substitute for SB18**

February 4, 2016

Chairman Barker and Committee Members,

During testimony on the original version of this bill in the Senate Corrections and Juvenile Justice Committee, the proponents and opponents generally agreed one portion of the original bill was important to address. That was the sections dealing with how law enforcement body worn camera and dash camera video is dealt with in regards to the Kansas Open Records Act. This same mutual concern was also found in testimony on HB2137 in the House Corrections and Juvenile Justice Committee.

Law enforcement is provided a great deal of information that we are expected to hold in confidence. Under current KORA laws we are required to allow any person requesting to see a video in our possession to view that video unless it is subject to an existing KORA exception. There are many cases in law enforcement daily operations where confidential and private information is shared with us where current exemptions are lacking. For example, handling domestic disturbance and other civil matters where there is no ongoing criminal investigation. Imagine you or a member of your family being involved in a matter where intimate personal details are provided to law enforcement and your neighbor or political adversary desired to view the video including that information. Under current law there are many circumstances we could not deny that person to view the video. The Attorney General's website on open records states in reference to KSA 45-219(a), "A public agency is not required to provide copies of. . . video tapes. . . However, under K.S.A. 2008 Supp. 45-220, access to the record must be provided unless there is a exception from disclosure based upon the content or nature of the item." While KSA 45-221(a)(30) offers some protection, we are concerned it leaves some interpretation of an "unwarranted invasion of personal privacy." We believe the language of Senate Substitute for SB18 adds clarity for handling open records requests for these law enforcement videos. Many of our agencies currently using video do not possess the necessary software and hardware to redact partial information or to blur out identifying images in the videos. Such redactions also require a great deal of time to complete.

Addressing the public access to these video recordings is important to maintain confidence in the public that they can provide law enforcement private and sometimes embarrassing or damaging information without it being made public. Without this confidence, people are likely to become reluctant to provide certain information law enforcement needs to accomplish its goals in service to the public. For example, witnesses could become reluctant to provide information; persons involved in domestic violence could become reluctant to provide details of their personal disputes law enforcement needs to restore peace; and sex crime victims could become more reluctant than they currently are to provide the details of their attacks. Not everything we are told on video is accurate. Sometimes that is

by bad intent, but sometimes it is what a person actually believes to be factual. If that information is on a recording and is not subject to any of the exceptions in place today it could be devastating to the person giving the information, the person the information is about, and sometimes their families.

Clearly it would not be proper to entirely close access to the video but is critical to the privacy of the public and particularly the victims and witnesses of crime. This bill, in its current form, closes the mandatory viewing of these videos to the public, but allows any person depicted in the video access to review it.

We understand the bill will likely be amended to the version of the bill recommended by the Judicial Council. We fully support that amendment. We believe the Judicial Council approach addresses the matter even better than the original substitute bill by classifying these videos as criminal investigatory records.

We encourage you to recommend this bill favorably to pass.

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