

**Testimony to the Joint Committee on Corrections and Juvenile Justice Oversight
Opposing the Original SB18, HB2137, and State Capture of Forfeiture Funds
Regarding Body Cameras
November 3, 2015**

Chairman Rubin, Vice Chair McGinn and Committee Members, thank you for giving me the opportunity to present testimony on this important issue. My name is Daniel Ward and I am the Chief of Police in Arkansas City, Kansas. I am here today to offer you the perspective on body worn cameras from the small police agency point of view.

There are several issues I would like to speak about today. Those include community trust, local control, asset forfeitures, common problems experienced by body worn camera programs, and last but not least, what the legislators can do to help law enforcement address the real problems.

I would like to begin by talking about what it is this proposed legislation is trying to achieve. The common theme and desire expressed by proponents of body worn camera legislation is that of increased trust and communications between the police and the community. As a Chief I support the use of body worn cameras in my community, I do not however support legislation which requires it. The bottom line is you cannot legislate trust and community relations for police departments. This is a task that each of us in law enforcement should be attending to every day and it does not come with something as simple as a camera. Community support and trust has been an essential part of policing since the beginning. Sir Robert Peel, the father of policing, said it best in 1829 when he put forth the nine principles of policing. One principle states, "police must recognize always the power to fulfill their functions and duties is dependent on the public approval of their existence, actions, and behavior and on the ability to secure and maintain public respect." This principle is as important today as it was 186 years ago.

Body worn cameras are but one tool police can use to enhance trust in their communities. In Arkansas City we strive to build community support and trust every day. We engage our community through social media and our web site. We regularly meet with civic groups and individuals. We have a citizen satisfaction survey in both English and Spanish. We provide important training to our officers such as Crisis Intervention, Guardian Mindset, and Procedural Justice. We have a vibrant National Night Out program, School Resource Officer program, DARE Summer Camp program, and Business Watch and Neighborhood Watch program. All Arkansas City Police officers are required to make three promises 1, to do the right thing 2, to do the best they can and 3, to treat others as they would want to be treated. We have our supervisors make monthly, in person follow up visits with citizens and randomly review in-car and body worn recordings to ensure we are meeting our goal and gaining community support and trust. Accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA) is probably the most significant project we are currently working on to build community trust and meet best practices in law enforcement. The CALEA accreditation program requires us to do a thorough top to bottom review of policies, practices, facilities, and equipment to ensure our department is meeting industry best standards. At the Arkansas City Police Department we have built a culture based on respect and inclusion, a camera will not do that for you.

Legislation on body worn cameras cannot provide for the critical communication which is required to build trust in the community. In fact, legislation which mandates body worn cameras creates a feeling of us vs. them for the officers and will lead to even less support and trust. We must stop this dialog which continues to divide the police and the public.

The desire to have body worn cameras needs to come from within the individual departments and the communities we serve and the acceptance cycle cannot be rushed. In Arkansas City when the topic first came up as a mandatory issue, many officers, and citizens for that matter, were skeptical and unsure. As we educated ourselves on body worn cameras and discussed it within the department and the community, we saw people not only accept it but embrace it. Any body worn camera program which does not have the support or acceptance of the rank and file will not be successful.

Each police agency and community in Kansas is as different as our Kansas weather. I should know. I served as an officer for 27 years in Lawrence. After retirement I went to work for Arkansas City. Those two communities, and police departments, are about as different as you can get. What works, and is manageable, in one community does not necessarily work in the other. One size does not fit all. The operational tempo differs from department to department and this tempo has a profound effect on a body worn camera program and the associated costs. Law Enforcement must communicate with their citizens to determine what is needed in their individual communities.

I believe the proponents of such legislation have done a good job of starting the conversation and of putting law enforcement agencies and leaders in Kansas on notice of what they believe is important. If your law enforcement agency does not have open communications with the public, if they are not doing what the community wants them to do, we as law enforcement leaders need to make a change. Law Enforcement is there to serve the public and they need to hear from their citizens.

But those needs are different in each agency and each community across Kansas. We cannot have a one size fits all law on this topic. Additionally, we cannot have a body worn camera policy which is locked in by law which can only be changed during the legislative session. Technology and policies will continue to change rapidly over the next few years. Local control of associated policy is imperative. One size does not fit all.

The next topic I would like to discuss is the common problems associated with body worn camera programs. In Arkansas City we traditionally deploy three to four officers on each shift and our shifts run twelve hours. When we were researching body worn cameras we were told by the manufacture the cameras would last a full twelve hour shift. We initially purchased ten cameras with the thought that we would have enough for the patrol officers and extras for occasional use by investigations and school resource officers. Within the first week of deployment we found the cameras were lasting about half as long as expected and we had several broken down. By the end of week one, we were down to eight units, we routinely did not have fully charged units ready for the next shift, we had to restrict their use to beat patrol officers only, and we had to order an additional six cameras. We experienced several incidents where the cameras malfunctioned and stopped recording and many occasions where the batteries suddenly ran out. We experienced these problems despite the fact that

we bought top of the line units which were very expensive. Our policy on body worn cameras addresses malfunctions and recording failures as we understand they will occur.

To outfit our small department of three or four officers on patrol with body worn cameras we found we needed four times as many cameras as officers on duty. This increased our initial capital outlay to about \$16,000 for the cameras alone. Body worn cameras are technical pieces of equipment which will malfunction and break down. If we have a law mandating all patrol officers have body worn cameras, departments will need to have stock piles of units to ensure they have enough working to send police officers into the field. When a citizen calls for emergency assistance, they don't want to hear we don't have enough body worn cameras so they will need to wait.

After the first week of use we also found we were using up data storage space significantly faster than expected. We are now in the process of doubling our storage capacity which will add to our initial and ongoing costs. Even after doubling storage space, it is nearly impossible to predict how long it will be before further expansion is needed. The busier the officers get, the more incidents they record, the larger the files become, the more space we will need. It will be a never ending pursuit for adequate storage.

Body worn cameras are fairly new technology. In fact the brand we purchased just hit the market this year. The manufacturer does not realistically know what the expected life spans of the units are as it is a new product. In conversations with the manufacturer they are hoping for a three year life span and yet they only come with a one year warranty. Body worn camera programs are expensive, changing rapidly, and have significant ongoing costs.

As to the topic of asset forfeiture as a means of funding mandatory body worn camera programs, I can see how this may seem like an easy solution; however, there will be unintended consequences. Currently, asset forfeiture funds are used by individual departments for important equipment and training purposes. Important community trust building trainings such as those I mentioned earlier can be funded using asset forfeitures. Removing the funds from local control and dedicating them to one purpose, body worn cameras, will diminish local departments' ability to provide critically important training opportunities.

At the Arkansas City Police Department, we have been building our asset forfeiture funds so we can afford to make the required upgrades to become CALEA accredited. Removing our ability to use these funds for projects such as accreditation would have a significant negative unintended consequence. Accreditation is far more encompassing and important than just one piece of equipment.

The amount of asset forfeiture funds collected across the State varies greatly. In Arkansas City for example, we do not collect a great deal of funds. When I took over in Arkansas City we had a balance of about \$5,000. During my time as Chief, we have not spent any forfeiture funds except to pay the associated legal fees. Today we have a balance of about \$16,000. While the amount of funds collected is not consistent, we have seen an average of about \$5,000 to \$6,000 per year. Those figures fall far short of the annual cost of body worn camera programs. With many departments collecting no funds, or

fewer funds than required each year, this would not be an equitable or stable and sufficient funding source.

At this point I feel we must have a frank discussion on how civil asset forfeitures are obtained and what this plan would do to the process. The officer on the street is the person making the initial contact with violators, which occasionally leads to forfeitures. Those forfeitures only occur when an officer is proactive and pushes forward with the appropriate questions to determine if there are assets subject to seizing. The process is also contingent upon the officer completing the extra paperwork required to begin the forfeiture. Today, some officers choose to be proactive and do the extra work to complete civil asset forfeitures, and they do it with the understanding those funds will assist their department in providing better equipment and better training. If body worn cameras are mandated, officers will reduce the amount of cases they begin the forfeiture process on as it will no longer be seen as a benefit. You may be able to mandate officers wear the cameras, but you won't be able to mandate the harder work to pay for it.

Before we begin to discuss what needs to be done legislatively, we must have another frank discussion. In 2001, national media outlets began reporting on shark attacks. They created a frenzy of fear which swept across the country. Most Americans were afraid to go into the waters and they wanted answers as to why sharks suddenly were attacking everyone. Time magazine declared 2001 as the summer of the shark attack. Before it was over, many were even calling for legislation to address the problem. That was when experts in the field pointed out that shark attacks had not increased and their occurrence rates were actually consistent with the year prior. The only difference was the news media decided to make the attacks front page news.

In 2014, police in America made over 11 million arrests. Of those, nearly half a million were for violent crimes such as homicide, rape, and robbery. Police have contact with very dangerous and violent offenders hundreds of thousands of times daily. In 2015, the media choose to report on a handful of cases across the country, just like they did with shark attacks in 2001.

In 2014, across the country, we had the lowest crime rates in 20 years. People are safer and less likely to die as a result of crime. This is a direct result of the hard work and dedication of the men and women in law enforcement. The citizens who benefited the most from these lower crime rates were those who lived in poverty stricken areas. Residents in those areas were for the first time in decades able to walk the streets without fear of being a victim of crime. If we continue with the dialog in this country which divides police and the public, there will be the unintended consequences of returning high crime rates and more people dying as a result of crime. This year we have already seen violent crime rates and homicide rates sky rocket in several major cities across America.

Annually, the Gallop Poll conducts a survey to determine the public's confidence level in institutions. The police are consistently rated as the third highest, just under the military and small businesses. Even after all that occurred this past year, the police remained in the third highest position, taking only a slight dip. In Arkansas City we routinely conduct citizen satisfaction surveys. We receive satisfaction ratings in the mid 80% range. Clearly, despite what the news media would have you believe,

the majority of police are doing a great job. This is not to say that we as police can't improve. As progressive professionals, we are dedicated to constant improvement.

Legislatively what is truly needed is an effort to address open public records and sustainable funding. A concern I heard repeatedly from citizens during our research phase was that of public exposure. Ensuring citizen privacy is a must for us in law enforcement. When people call us for help it is usually one of the worst days of their life. Those moments can be extremely embarrassing for the citizen. The last thing we want is to create an environment where citizens are reluctant to call for fear their personal issue, and video, will be on the World Wide Web or the 6 o'clock news.

As an example, let's say you finish a hard day of creating laws and go home to find your sixteen year old daughter preparing to go out for the night and she is wearing clothing you deem is not appropriate for public. When you tell her she is not going out dressed like that, she screams at the top of her voice and expresses her anger. Your nosy neighbor hears your daughter scream and calls the local police department. The officers arrive to your home and they are wearing body cameras. They determine no crime occurred and they leave after speaking with everyone, including your daughter. Your neighbor is certain you beat your daughter and the police did not arrest you because you are a public official. The neighbor goes to the police station the next day and completes an open records request for the body camera footage. Under current law, I would have a difficult time not allowing the neighbor to see the footage, including the image of what your daughter was wearing.

Open records requests can greatly hamper police departments. In Seattle a single open records request almost shut down the department's entire body worn camera program. The requestor wanted all video footage of every call every day. The majority of footage obtained by the police is not related to open criminal investigations, and is subject to open records requests. Additionally, there is no fast and easy way to redact certain portions of videos. The process of redaction can take hours and hours of employee's time. Many States are beginning to address this important concern with appropriate legislation.

As I said before, body worn camera programs are expensive and we have not seen the end of how expensive they will be. Departments across the State which choose to implement programs need appropriate funding to not only start the program but also sustain it well into the future. Taking money out of a Police Chief's right pocket and putting it in his left pocket is not providing funding. Texas addressed this need in Senate Bill 158 by encouraging departments to use body worn cameras. For those who choose to do so, they require the individual departments to develop policy and then the State will provide grant funding to assist with the costs. The Texas bill does a very good job of allowing for local control while simultaneously providing appropriate funding and restricting open records requests.

In conclusion, I would like to leave you with this. I, along with the overwhelming majority of those in law enforcement, work hard to meet best practices and industry standards, build community trust, and make our cities a pleasant, safe place to live and work. We know what our communities and department's need and want. Give us, the leaders in law enforcement, a chance to do the right thing

and do what is best for our individual departments and communities. Body worn cameras are not the end all be all solution. Building community trust is a complex issue that takes a great deal of work, not just a single piece of equipment. Mandating body worn cameras is not the solution. I ask that you work with law enforcement leaders in our efforts to make a real and significant change where change is needed. I would like to end my testimony today with a quote from General George Patton, "Never tell people how to do things. Tell them what you want them to achieve, and they will surprise you with their ingenuity."

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