



Testimony to the Senate Judiciary Committee  
On SB 360

February 13, 2018

Chairman Wilborn and Members of the Committee:

Thank you for the opportunity to offer written testimony in opposition to SB 360.

Our first concern with SB 360 is its elimination of the public agency's right to require a written record request under the Kansas Open Records Act. The requirement for a written request allows a public agency to record the name and very basic information about the requestor along with the description of the requested materials. This written document only helps the agency process the request, and serves as a record itself of the KORA transaction should a dispute arise later. The committee should note that a violation of KORA carries penalties, which underscores why public agencies should be able to document the request. We do not believe the requirement for a written request is a burden on the public, as it has been part of KORA for years.

KAC raises concerns about the bill's requirement for disclosure of any audio or video recording from a body camera or vehicle camera based on a request from *any* person. Current law creates a narrow list of individuals that may view the recording, and that law was just enacted in 2017. We would prefer to operate under the newly amended law for a longer time period before evaluating whether it needs to be amended.

The release of body and vehicle camera footage is a delicate matter. While we understand and sympathize with the public's interest in viewing the visuals behind a police encounter that has caused death or serious injury, the public debate on legislation must include a balanced discussion with emphasis on the effects on law enforcement and the criminal justice system.

First, releasing this sensitive video quickly after the incident and prior to the release of the facts and the conclusions of law could spur premature public outrage. No one wants an encounter with law enforcement to result in death or serious injury but there are instances when it is necessary in the line of duty. The release of video must be accompanied by a decisive conclusion of facts and law so the public can equally weigh the video footage with accurate information surrounding the incident.

SB 360 allows law enforcement to redact certain sensitive portions of the video. However, we have no estimates of the expense or burden associated with the redaction software and staff time that would be needed by cities and counties to comply with this bill.

Releasing video footage detailed in SB 360 could have consequences on the criminal justice process: It can interfere with any criminal investigation relating to the video, taint potential jury pools, and

have negative effects on those witnesses shown in the video. This record is currently deemed to be a criminal investigation record with limited access, and should remain in that category for all the reasons that were discussed in last year's debate on the topic. Premature release of such a video could also taint the jury pool that will ultimately hear the case, especially in a small community. Lastly, releasing the video publicly invades the privacy of the witnesses and other subjects depicted in the video, and could negatively and unfairly impact them.

KAC expects that law enforcement will explain in greater detail the concerns of cities and counties when it comes to the effects of this legislation. We encourage the committee to consider their concerns, and hold the bill in committee. Thank you for consideration of our points in opposition to this legislation.

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