

To: House Judiciary Committee

From: Amanda L. Stanley, General Counsel

Date: February 18, 2020

RE: Opposition to HB 2424

I want to thank Chairman Patton and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide testimony in opposition of HB 2424.

HB 2424 modifies the Kansas Open Records Act, KORA, when there is a death of an individual that results directly from an action or an omission of a law enforcement officer while the officer is performing activities within the scope of the officer's duties. HB 2424 would require each law enforcement agency have a written policy regarding these types of investigations. The policy must include an investigation conducted by at least two investigators, neither of whom is employed by the same agency as the law enforcement officer involved. The investigators must provide a complete report to the county or district attorney of the county in which the death occurred.

If the county or district attorney declines to prosecute the officer, the report must be released. Nothing in KORA may be used as a basis to refuse to disclose the report. As written, it is unclear if the report can be redacted using KORA to protect important privacy interests the State has previously found to be good public policy.

Any time there is an officer involved death, it is a tragic situation and we understand the desire of the family members to understand what has occurred. That is why the League, and our members, supported the 2018 changes to K.S.A. 45-254 which allows any person who is the subject of an audio or visual recording made by a law enforcement body or vehicle camera, any parent or legal guardian of a person under the age 18 who is the subject of such recording, an heir at law when a decedent is the subject of such recording, or an attorney for any of these individuals to see this footage within 20 days after making a request.

Any major policy change to how we treat criminal investigation records should be carefully considered. Rather than pass this bill out to the full House, the League strongly recommends the issue be sent to the Judicial Council to study how it will interact with the current law and how it would interact with HB 2029 currently sitting in this Committee which contains the Judicial Council's recommendations on modifications to criminal investigation records treatment under the KORA but which has not had a hearing.

For these reasons, the League asks this Committee to not recommend HB 2424 favorably for passage.